The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. Emerson).

DESIGNATION OF THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore laid before the House the following communication from the Speaker:


I hereby designate the Honorable Jo Ann Emerson to act as Speaker pro tempore on this day.

NEWT GINGRICH, Speaker of the House of Representatives.

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

In addition to all we must know to do our work, all the facts, background, consequences, and magnitude of our action or inaction, we pray, gracious God, that we will also be blessed by the gift of wisdom. We pray that we will know discernment in our thoughts and sound judgement in our decisions as we weigh the worthiness and merit of what we do. We realize that facts and events gain meaning and power when they are blended with prudence and insight. As the scripture tells us, so teach us to number our days that we may get a heart of wisdom. Amen.

THE JOURNAL
The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces:

Pledge of Allegiance
The SPEAKER pro tempore. Will the gentlewoman from Washington (Ms. Dunn) come forward and lead the House in the Pledge of Allegiance.

Ms. DUNN 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.

ANNUAL BY THE SPEAKER PRO TEMPORE
The SPEAKER pro tempore. The Chair will take 10 one-minutes from each side.

THE WORLD TRADE ORGANIZATION AND AMERICAN SOVEREIGNTY
(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, we will soon be debating an amendment which will define what powers the World Trade Organization will have over the ability of the American people, through their elected representatives, to determine our own fate, to make our own laws, to decide our own policies.

Should we sacrifice our sovereignty, our domestic interest in order to satisfy an international tribunal? I think not and I hope that our colleagues will agree. The WTO is selectively challenging our local, State and Federal laws, saying that they are infringements on free trade. No U.S. laws or regulations are safe from the reaches of the World Trade Organization. Even at risk are sanctions laws such as the ones passed by New York City and the States of California and New Jersey protecting Nazi Holocaust victims who had their assets stolen by Swiss banks. The Swiss have already said they want a WTO ruling on such sanctions. Is nothing sacred from the clutches of the WTO? Apparently not.

So along with the gentleman from Ohio (Mr. Kucinich), the gentleman from Vermont (Mr. Sanders), the gentleman from Oregon (Mr. DeFazio) and the gentleman from Florida (Mr. Stearns), we will be offering an amendment to state that diplomacy does not mean surrender.

REPUBLICAN MANAGED CARE REFORM DOES NOT MEASURE UP
(Mr. STUPAK asked and was given permission to address the House for 1 minute.)

Mr. STUPAK. Madam Speaker, tomorrow we are scheduled to begin the debate on the Patients' Bill of Rights. I ask the American people to look at both plans, the Democratic plan and the Republican plan. As you do, you will see point by point the Democratic Patients' Bill of Rights is far superior in reform that will guarantee that doctors and patients and not insurance executives will decide your medical future. The right to have protection for women after mastectomies and reconstructive surgery is in the Democratic bill, not in the Republican bill. Democrats provide for a choice of doctor within a plan, access to specialty care, and direct access to OB-GYN for women. These are all parts lacking in the Republican plan.

To enforce your choice, and it is your choice and your access to your doctor, the Democrats allow enforcement in State courts if you are injured by your HMO plan. Why do you need that protection? Because in this country, two groups have immunity. They are HMOs and foreign diplomats. You pay for health insurance. You have the right to demand quality health insurance.

Support the Democratic HMO Patients' Bill of Rights.

TRIBUTE TO MARGARET BARNETT
(Mr. SHIMKUS asked and was given permission to address the House for 1 minute.)

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
Ms. SANCHEZ. Madam Speaker, I rise today to share with my colleagues the success of a forum I hosted in my district on managed care reform. Since I came to Congress, I have listened closely to the managed care reform debate. I have also read the newspapers, I have seen the polls, and I have heard the horror stories.

This past weekend I did what every Member of this Congress should do, I heard from my communities. I learned that my communities do want reform and do want some type of Patients’ Bill of Rights. They want Congress to initiate reform and to keep the interest of the patients in mind.

My constituents believe that HMOs are the future of health care, but they want to make sure that care is put above profits. Any bill that we pass is going to affect each one of these people, millions of Americans and thousands of Orange County residents.

Now, we may have to take some votes this week on the managed care bill offered by the Republicans. Let me tell you in Illinois, we’re not very happy about that bill. But before you decide to vote for any bill, I want to encourage my colleagues to host similar forums in their districts. By listening to your constituents, you will learn what changes are really needed. It is time that we give our constituents a voice before their choice is taken away.

2000 CENSUS

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

Mr. BARTLETT of Maryland. Madam Speaker, today on the House floor we plan to debate the Commerce, State and Justice appropriations bill. Funding for the constitutionally mandated census in the year 2000 is an issue that the American people will soon be hearing a lot more about.

First let me remind my Democratic colleagues of a provision in the U.S. Constitution that they routinely ignore in their discussions of the census. Because I know that Democrats are not in the habit of carrying around the Constitution, I will make their life easier by quoting Article I, Section 2 from the document to which you swore an oath:

The actual enumeration shall be made within 3 years after the first meeting of the Congress of the United States, and at intervals of 10 years, thereafter, counting for the constitutionally mandated census in the year 2000 is an issue that the American people will soon be hearing a lot more about.

Now, despite the liberal Democrat habit of finding things in the Constitution, there are around the words that are there for all to see. “Actual enumeration” no matter how you slice it means exactly what it says. Congress shall by law direct an actual count, not an approximate guess, poll or sample. Period.

DEMOCRATIC PATIENTS’ BILL OF RIGHTS VERSUS REPUBLICAN INSURERS’ BILL OF RIGHTS

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

Mr. ENGEL. Madam Speaker, this week we will be voting on a Patients’ Bill of Rights, something that all our constituents want. The Republican plan as put forth in the House does not do anything, does not protect people, and I think it is time to take a look at the difference between the Democratic plan and the Republican plan.

The Republican plan does not protect every American in a private insurance plan. Their plan only applies to 50 million people, every American who is covered by a private insurance plan.

The Republican plan does not return health care decisions to health care professionals and their patients. The Democratic Patients’ Bill of Rights protects at least 140 million people, every American who is covered by a private insurance plan.

The Republican plan does not return patient guarantees to patients the right to see a specialist when they need to do so. The Democratic Patients’ Bill of Rights does. The Republican plan does not allow for access to OB-GYN for all women or emergency room coverage for all patients. The Democratic Patients’ Bill of Rights does. The Republican plan does not hold insurance companies responsible for their actions denying patients the care they need. The Democratic Patients’ Bill of Rights does.

When you stack the two up, Madam Speaker, there is no comparison. The Democratic Patients’ Bill of Rights protects the American people’s guarantee access to health care, and guarantees that this coverage will be there for all Americans. The Republican plan is just a public relations gimmick and a sham.

VOTE TO OVERRIDE VETO OF BAN ON PARTIAL-BIRTH ABORTION

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

Mr. PITTS. Madam Speaker, today is the day that the House will vote to override the veto of the partial-birth abortion ban. I want to illustrate here why President Clinton’s position is the extremist position. This is a baby that could be born. But let me show you what happens. The doctor reaches in and turns this baby around so that the baby is born breech first. The head is still within the birth canal. Then at this time, the doctor inserts scissors into the back of the neck of the baby and then puts a suction tube in to suck out the brains of a live baby. Do you think this baby does not have pain and feel pain? This is a baby that could be delivered as a live baby boy or girl.

We need to vote to override this veto of the partial-birth abortion ban which is a horrific procedure in America.

SUPPORT THE DEMOCRATIC PATIENTS’ BILL OF RIGHTS

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

Mr. FAZIO of California. Madam Speaker, I rise today to remind my colleagues about the real priorities of managed care reform. A woman from the Sacramento community I represent has waged a 4-year battle with her former employer and its self-insured ERISA plan. This woman is in court because her firm is with her care for her 7-year-old son born with a spinal cord injury facing many of the same challenges as actor Christopher Reeves. The law that shields employers who self-insure from accepting responsibility for denied medical services leaves this family with the burden of health care for their son. When the plan started to refuse coverage, this woman had to choose between a job she was good at and enjoyed and the well-being of her child. She quit her job to give her child nursing care 24 hours a day. But without this income, the family was forced into bankruptcy and lost its business.
While this case has dragged on in the courts, the brave little boy at the center of this tragedy has learned to walk and ride a bike. But his medical needs are still not being met. This debate is about helping hard-working families like us get the best health care possible for their families. Nothing more, nothing less. To obtain this we need to support the Patients' Bill of Rights and oppose the unenforceable Republican plan.

**MANAGED CARE REFORM**

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

Mr. EWING. Madam Speaker, it is much easier to be a liberal than to be a conservative. Just consider for a moment what has been said by our colleagues on the other side during the debate on managed care over the past 2 weeks. The pattern here, you can see on almost every public policy issue. First, declare a crisis. Really? After all, we know there are problems with legitimate managed care, the polls show 90 percent of the people with this care are satisfied. Second, propose a solution that will make the problem worse, thus giving the Democrats more opportunity to declare a crisis. The solution for the other side is always the same, more mandates, more lawyers, and, let us not forget, more government. This will raise the price, making health care less affordable than it was before. The final step is to deny that their proposal will do anything of the sort. Then in a few years when the problem is even worse, they will declare their outrage again, just as they are doing now.

**PARTIAL BIRTH ABORTION BAN**

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

Mr. EWING. Madam Speaker, no civilized society should condone or even tolerate a heinous procedure such as partial birth abortion. Congress will again pass a ban on partial birth abortion and this time the President should sign the ban.

By his past veto, the President has demonstrated that he is out of step with 85 percent of the American people who support an end to this heinous procedure. With this in mind, I want to tell you about a miracle baby girl named Sarah.

Sarah appeared last year on CBS's "Mysteries and Miracles." When she was only four inches long, Sarah was taken briefly from her mother's womb to remove a growing tumor.

Sarah's heart stopped beating during the surgery, and the surgeon performed CPR for 20 minutes to revive her. In July of 1996, Sarah was delivered by C-section and is now a toddler. Unfortunately, even as lives like Sarah's are being saved by scientific breakthroughs, others are being extinguished through abortion. The care Sarah received from her surgeons provides a stark contrast to the treatment her mother might legally have chosen: a partial birth abortion.

**VEVO OF EDUCATION SAVINGS ACCOUNT BILL**

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

Mr. GIBBONS. Madam Speaker, once again, the counterfeit logic of the Democrats and this President have put the children of America at risk.

I am not talking about the sale of classified military technology to China. I am talking about the President's veto of the Education Savings Account bill. Put aside for the moment that this bill would have allowed parents to save for the future education of their children. The bill he just vetoed would have given schools greater leeway to expel and discipline students who bring guns or other weapons to school.

The bill he vetoed would have permitted school officials to implement safety measures to protect innocent children. How many times have we all heard the President state that safety at schools was one of his top priorities?

Madam Speaker, we can no longer sit idly by while the violence in schools continues to rise. Congress must override his veto and pass legislation that will enable our schools to develop local policies that end school violence.

Parents, teachers, and especially students all across America should not have to wait one more hour, one more day, or one more week for safer schools. Our children should be working on their education, not worrying about their safety.

I urge the President to reconsider and retract his veto and start protecting our children.

**CENSUS DEBATE**

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

Mr. BALLENGER. Madam Speaker, once again, the Republicans will insist on a bill that contains guarantees that are significant for health care consumers. The Republican bill provides no effective mechanism to hold plans accountable when plan abuse kills or injures someone.

Democrats will insist on a bill that contains guarantees that are significant for health care consumers. The Republican plan is basically a sham.
for 1 minute and to revise and extend his remarks.)

Mr. BALLenger. Madam Speaker, should we count or should we take a poll? The census debate boils down to that difficult question.

The only question why should the Constitution stand in the way of rigging the numbers the way we want? After all, the Democrats are either unaware of Article I, section 2 of the Constitution that states in clear language that Congress shall direct that a census be conducted using an actual enumeration, or they simply wish to ignore it.

Either way, it is troubling that one party is willing to go so far to trample on the Constitution just for political purposes.

Most Americans do not have a Ph.D. in English or in American constitutional history. But most Americans do believe that sampling, guessing, or taking a poll does not qualify as actual enumeration, also believe the Constitution actually means what it says.

They are pretty tired of liberal Democrats inventing out of whole cloth things that are in the Constitution, no matter how many liberal experts in Washington tell us otherwise.

HMO REFORM

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

Ms. SLAUGHTER. Madam Speaker, Americans are frustrated with their managed care plans. It is no wonder; HMO horror stories abound. Every day we hear stories of people being denied care, doctors being forbidden from discussing treatment options, and patients unable to get justice when things go wrong.

Americans want a few simple things from their HMOs. In an emergency, they want care without having to worry about whether all necessary treatments will be covered. They want the right to visit the specialist who can address their health problems and the right to get prescription drugs they need.

They want accountability from HMOs and insurance companies when they are injured by abusive practices. They want absolute privacy in their medical records and protection from discrimination on the basis of their genetic information.

Unfortunately, we have not been given the opportunity to have any hearings or a markup on these issues, and, therefore, I encourage my colleagues to carefully consider the great need for legislation that will guarantee patient protection and put the emphasis on managing care rather than managing costs. I urge us to settle for nothing less.

We have a historic opportunity to end these horror stories. Let us not waste this opportunity on half-baked attempts at reform. Let us take this chance to guarantee the protections that Americans want and need in their health care plans.

VETO OF EDUCATION SAVINGS ACCOUNT BILL WAS WRONG

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

Mr. ROGAN. Madam Speaker, the President’s late night, quiet veto this week of Education Savings Accounts—timed in order to miss the evening news—means that those that produced generations of education failure have dodged the bullet again.

The other side should explain to America why encouraging parents to save for their children’s education is a bad thing. Oh, they are long on heart-warming rhetoric about their care and compassion for “the children” and for “education,” but when it comes to education reform legislation that threatens the special interests that gave us these failing schools in the first place, they are woefully short on action.

They send their own kids to private schools, but then tell working parents who want to have for their children’s education “no.”

Madam Speaker, Republicans in Congress are not content to simply talk about “the children,” we will fight for children, and for the world-class education they deserve. We will continue the fight for working parents who want to be able to save for their children’s education through Education Savings Accounts.

VIGILANCE OF BROWN TREE SNAKE NEEDED IN HAWAII

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

Mr. ABERCROMBIE. Madam Speaker, I rise this morning to express my support for provisions in the Interior Appropriations bill we are debating today for the funding of the Brown Tree Snake control efforts.

The consequences of the Brown Tree Snake becoming established on any of the Hawaiian Islands would be devastating. We have only to look at Guam to understand the potential extinction of species will, not might, result from the introduction of the snake to Hawaii.

Guam now experiences an instance of more than 12,000 of these snakes per square mile. Entire species have disappeared from Guam since World War II when the snake was accidently brought to the island, most probably aboard military aircraft which had visited areas of the South Pacific in the snake’s natural habitat.

The Interior Appropriation bill contains $2.1 million for prevention, education, and inspection programs, an increase of $500,000 over last year. We need to step up our vigilance in Hawaii against this invasive species which has brought wildlife ruin elsewhere.

The scientific community has not yet developed an effective eradication method. Although I hope we can soon understand how to control and eliminate the snake, until that time, the only action we can take is preventing its introduction into Hawaii.

I am very pleased that the Committee on Appropriations has recommended an increase, and I look forward to working with my colleagues in achieving the highest funding level to achieve our goals.

PATIENT PROTECTION ACT

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

Ms. DUNN. Madam Speaker, I rise today in support of the Patient Protection Act. I am 1 of 3 women who have served in Congress.

I urge my colleagues to support the Patient Protection Act when it comes to the floor tomorrow.

MANAGED CARE REFORM

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

Ms. DELAURO. Madam Speaker, as a cancer survivor, I can tell you that when you are diagnosed with a deadly illness you come face to face with your own mortality. When wondering whether you are going to live or you are going to die, you should not have to worry that 2,000 miles away an HMO accountant is making the decisions about what kind of treatment that they are going to provide or what kind of drugs can be provided for your illness. These are the kinds of decisions that ought to be made by doctors and patients, period.
The Democrats do have a managed care reform proposal that would ensure the critical health care decisions are made by doctors and patients and not HMO bureaucrats. Yet, the Republican proposals would not provide access to specialty care for cancer patients, provide the necessary needed drugs, prohibit drive-through mastectomies. They have no direct access to OB/GYNs. The last straw is they have no access to State courts if your HMO plan injures you.

What they do allow is for those company accountants to continue to value its HMO healthy profits over the healthy patients that are in this country. Let us return medical decisions back to doctors and patients. Let us pass the Democratic Patients’ Bill of Rights.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997—VEETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-158)

Mr. CANADY of Florida. Madam Speaker, I offer a privileged motion. The SPEAKER pro tempore (Ms. EMERSON). The Clerk will report the motion.

The Clerk reads as follows:

Mr. CANADY of Florida moves to discharge the Committee on the Judiciary from the further consideration of the president’s veto of the bill H.R. 1122.

(For veto message, see proceedings of the House of October 21, 1997 at page H8991.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. CANADY) is recognized for 1 hour.

Mr. CANADY of Florida. Madam Speaker, I yield the customary 30 minutes to the gentleman from Virginia (Mr. SCOTT), pending which I yield myself such time as I may consume.

Mr. SCOTT. Madam Speaker, today for a second time the House considers a presidential veto of bipartisan legislation banning partial-birth abortion. In the last Congress, although the House overrode President Clinton’s veto of the Partial-Birth Abortion Ban Act of 1995, the veto was sustained in the other body. Shortly after the current Congress convened, new legislation to ban partial-birth abortion was introduced. In due course, the Partial-Birth Abortion Ban Act of 1997 was passed by both Houses. President Clinton’s veto of that legislation is before the House today.

Just 2 weeks ago, the Members of this House and the American people received a stark reminder about the reality of partial-birth abortion. We read in press reports of a tiny baby in Phoenix, Arizona, who was almost killed by a partial-birth abortion. The baby girl survived, but she was left with a fractured skull and deep lacerations on her face. She survived only because the abortionist stopped the procedure when it became obvious that she was at 9 months and not 5½ months, as had originally been thought. The abortionist stopped, but we know, nevertheless, that partial-birth abortions are performed from the fifth month through the ninth month of pregnancy, and that a baby feels extreme pain and suffering during partial-birth abortion at any stage of pregnancy. Miraculously, in this case, a little girl who was marked for destruction is alive today and a Texas couple have come forward to adopt her.

Of course, we know that surviving an attempted partial-birth abortion is very much the exception. Tragically, most of the babies singled out for partial-birth abortion have their lives brutally snatched away, just within inches from being fully born.

Now, despite the campaign of deception waged by the abortion industry to cover up the facts about partial-birth abortion, we know that this gruesome procedure is a necessary medical procedure for only a few cases in a thousand. We know that in the overwhelming majority of cases, it is performed on the healthy mother, mothers of healthy babies.

We know that the abortion industry that claims partial-birth abortion is a rare procedure used only in extreme cases was a lie all along. We know this because the facts are undeniable and because representatives of the abortion industry have themselves ultimately admitted that the industry has been lying along.

With their campaign of deception exposed, with the lies revealed in the full light of day, what do the advocates of partial-birth abortion say now?

They say that partial-birth abortion is necessary to protect the health of women. They say that partial-birth abortion must be preserved as an option for abortionists to use. They say that it is a necessary medical procedure. These claims, like all their other claims about partial-birth abortion, are false, untrue from start to finish.

When we hear the claims of the defenders of partial-birth abortion, I ask them to consider what partial-birth abortion is. Look at this procedure. These claims, like all their other claims about partial-birth abortion, are false, untrue from start to finish.

When we hear the claims of the defenders of partial-birth abortion, I ask them to consider what partial-birth abortion is. Look at what this brutal procedure actually involves. This is partial-birth abortion: Guided by ultrasound, the abortionist grabs the live baby’s leg with forceps. Look at this procedure.

The baby’s leg in the next step is pulled out into the birth canal. The abortionist then delivers the living baby’s entire body, except for the head, which he or she slightly lodged just within the uterus.

Then, in the final step of this horrible procedure, the abortionist jams scissors into the baby’s skull. The scissors are opened to enlarge the hole. Then, after the baby has been killed, the scissors are removed and a suction catheter is inserted. The child’s brains are sucked out, causing the skull to collapse, and the delivery of the dead child is completed. This is the final step of the procedure.

Now, I have described this procedure many times. I wince every time I describe it. It is a horrible thing to describe: it is a horrible thing to contemplate. And to the Members of this House who support partial-birth abortion, I would appeal to them, I would appeal to them to look at what is happening to our most vulnerable children whenever a partial-birth abortion is performed.

Now, let me ask my colleagues, how is this horrific procedure calculated to protect the health of the mother? That claim simply makes no sense. It is absurd to claim that killing a fully-delivered child in the birth canal is necessary to protect the mother’s health. How does this death blow delivered by the scissors into the tiny baby’s skull help preserve the health of the mother?

Madam Speaker, listen, listen to what Dr. Pamela Smith, Director of Medical Education, Department of Obstetrics and Gynecology at Mt. Sinai Hospital says, and I quote her:

There are absolutely no obstetrical situations encountered which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Listen to Dr. Nancy Romer, a practicing high-risk obstetrician-gynecologist who is also a professor of medicine. Dr. Romer says this:

People deserve to know that partial-birth abortion is never medically indicated, whether to save the health of a woman or to preserve her future fertility.

I would appeal to my colleagues to also listen to the American Medical Association on this issue, which, despite its strong support for abortion rights, has supported this legislation to ban partial-birth abortion. The American Medical Association itself recognizes that partial-birth abortion is not a legitimate medical procedure.

The health argument used by President Clinton and the other defenders of partial-birth abortion is nothing more than a pretense. It is a cloak for the extremist position that abortion for any reason at any stage of pregnancy, and using any procedure imaginable should receive the absolute protection of the law of the land.

I would appeal to my colleagues to reject this extremist position, listen to the voice of reason, cut through all the lies and deception, base your vote on the truth, think of the babies who are subjected to this horrific practice. If my colleagues do so, they will vote to override the President’s veto.

This House should, once again, reject the President’s veto and pass this legislation in support of partial-birth abortion, and move forward to override his veto of the Partial-Birth Abortion Ban Act.

Madam Speaker, I reserve the balance of my time.
the Committee on the Judiciary really ought to consider, for example, is: is the bill constitutional or not?

This bill is not about whether or not a decision on abortion should be made; the question is which procedure ought to be used and which procedures are cases, a long line of cases that say directly that we cannot intervene and make the decision for the physician and the mother as to which procedure ought to be used. The Committee on the Judiciary ought to consider those decisions.

We have been asked now to discharge them from further consideration of the bill. Madam Chairman, the Roe versus Wade decision, the Casey versus Planned Parenthood and other cases have shown that we cannot intervene in this decision.

We have heard the description of a case in Arizona. This bill would not have an effect on that because the decision for the abortion is made and then one decides on the procedure, if one cannot use one procedure, then one would use another procedure. The decision for the abortion is a separate decision.

We ought to oppose the motion to discharge, and instead, require the Committee on the Judiciary to do its job, determine whether or not the bill is constitutional, which the supporters in committee last time it was considered acknowledged that it was not constitutional. We ought to fashion a constitutional bill, and there are many alternatives that we could have brought to the floor rather than this bill.

Madam Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Madam Speaker, I rise today in support of the motion to override the President's veto. As a mother and a grandmother of 7, this is an especially heartbreaking issue.

My colleagues have just seen the graphic details. Suffice it to say, partial-birth abortion is a horrific way to end the life of a tiny 9-month-old baby. It has no place in a civilized society.

This should not be a divisive issue. We are talking about killing, killing healthy babies. These are babies that have long been able to survive outside their mother's womb.

Most Americans are really shocked when they learn that this procedure is legal. It is closer to infanticide than to abortion. For most of us, this is a no-brainer. Today when the vote is called, we will see many pro-choice Members of Congress vote against the President's veto. Madam Speaker, after all, accidental gun deaths are a really big problem in this country, yes, but every year, far more children are killed by partial birth abortions than are killed in accidental shootings.

By overriding the President's veto, we are going to stand up for the thousands of newborn children, those children who do not have a say in our political process. If we fail to do so, I fear that the House will condone infanticide in the name of preserving abortion rights.

The choice is easy. Let us override the President's veto.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. FAZIO).

Mr. FAZIO of California. Madam Speaker, this bill, the subject of this debate, is designed to protect vulnerable women—women who want to be mothers, but who have found that something has gone terribly wrong with their health or with the fetus. None of us support late-term abortions for no reason, and yet supporters of this bill would have us believe that women come to this terrible and tragic decision arbitrarily. They talk of procedures and ignore the tragedy impacting the lives of real people, real families, women who want to be mothers.

So, unless we are to sustain the President's veto today, and then go back and write a bill that matches the rhetoric that we hear but that takes into consideration the health and life of the mother, because that is consistent with Roe versus Wade, which certainly allows the States to act to ban third-term abortion.

The procedures that we have discussed here are rare and they should be so. Only when no alternative exists should they be used, but to ban them without further recourse is callous in and of itself.

Madam Speaker, I urge my colleagues not to target women and families when a pregnancy has turned to crisis and becomes a tragedy. I think we should let a woman, her doctor, her family make this terrible choice. This is not the role of government. I hope we will sustain the President's courageous decision to veto this bill, and if we fail, I will go to the Senate will.

This is a terribly complex area in which to legislate. I fear we have made this more of a political debate and over looked the kind of in-depth analysis of the real situation that people caught in this terrible tragedy face.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. ROEMER. Madam Speaker, I rise today to strongly urge my colleagues to vote to ban partial birth abortions. This is a moral blind spot that this Nation can no longer allow. It is gruesome, it is barbaric, and it is brutal. We have the opportunity today to ban this procedure with our vote to override the President's veto.

Killing a baby as it is being born is simply an act of brutality. Our Constitution protects us from cruel and unusual punishment; I submit that partial-birth abortion is both.

Now, I am joined with some of my colleagues on both sides to provide the option of contraception in order to try to find ways to prevent unwanted pregnancies that too often result in abortion. Today I encourage my colleagues, women and men, and Republicans and Democrats, pro-life and pro-choice Members, to come together and ban this procedure today.

□ 1045

I urge support for this. I would encourage my colleagues to come together today and ban this procedure. Not just today, not just for tomorrow, but well into the future. Join together, as we did last week with the strong support of both sides of the aisle, to try to do what we think is right. It is not oftentimes when we consider budgets and pot holes and hydrogen and space programs that we vote on life itself. This is one of those votes. I encourage bipartisan support for our position.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Madam Speaker, I strongly opposed to late-term abortions. In fact, in 1987, as a member of the Texas Senate, I helped pass a law that is law today that is saving babies from late-term abortions.

Madam Speaker, there is a huge difference between the bill that we passed that is law today in Texas, that is working, and the bill that was designed for maximum political sound bite impact that we are voting on today.

The first difference, in Texas our goal was to save babies. That is why we outlawed all late-term abortion procedures. This bill, if Members look at it carefully beyond the 30-second sound bite and TV ad appeal of it, this bill still allows abortions to occur in America on the 29th day of the eighth month of pregnancy.

The sponsor of this bill just a moment ago said we should be honest in this debate. Let the proponents of this bill be honest to the American people in saying that this bill, this bill will allow abortions in America at the eight month, 29th day. We did not think that was right in Texas, and that is why we wrote the law differently. I think the supporters of this bill ought to discuss that point. That is one reason, frankly, I think this bill should go back to committee for further consideration, rather than political debate here today.

Second difference, in Texas, because we wanted to save babies and not make a political point, on a bipartisan basis we crafted a bill that would meet constitutional guidelines. This bill is clearly unconstitutional, one of the reasons the President vetoed it under the guidelines of Roe versus Wade and as has been established by Federal judges and courts across this country from one State to another.

The third difference between the Texas law today and the bill we are debating today is in Texas we trusted women to make responsible choices in very rare tragic pregnancies. This bill does not trust women to make those responsible choices.
Specifically, the Texas law said in those rare cases where a woman's health was seriously at risk or her fertility at risk, the incredibly difficult emotional decision about how to preserve the mother's ability to have children should be a decision made by that woman and her doctor and her God, and not by politicians in Austin, Texas, or in Washington, D.C.

Madam Speaker, in my personal opinion, if there is one frivolous late-term abortion using any procedure anywhere in the country, that is one too many and we ought to stop it. But this bill does not do that. What this bill does is potentially, according to the American College of Obstetricians and Gynecologists, the experts in this field, this bill what it is really going to do is risk women's health and their ability to have children.

Madam Speaker, we ought to send this bill back to committee and make a bill that works, not a bill that makes sound bites.

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentlewoman from Idaho (Mrs. CHENOWETH).  

Mrs. CHENOWETH. Madam Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding me this time.

Madam Speaker, I wanted to add a point by the previous speaker about the fact that the Texas law preserves the right of a woman to more children; that is a higher choice than right to the life of a matured child yet in its mother's womb.

The facts we need to remember is that that baby who is being killed and delivered by the partial-birth abortion will not only not have a choice for its own fertility in the future, it will not even have a life, and that is what this bill is about, preserving life.

Now, we preserve all kinds of things in this Nation, including things that may never be used. But preserving life is our number one criteria and our duty as lawmakers.

I rise in strong support of H.R. 1122, the Partial-birth Abortion Ban Act. Last year, apologists for this abominable practice raised a fog of mendacity over the whole issue, but yet that today, that fog of mendacity has been pierced. There is greater understanding.

Let the truth be known that thousands, thousands of partial-birth abortions are performed every year on mature children that are yet unborn.

On June 30, for instance, of just this year, 1998, an Arizona abortionist stopped a partial-birth abortion right after he began it. The baby's skull was crushed and the baby was born with a crushed skull and facial lacerations. That was carried in the national news, this very disturbing news. But thank goodness that that doctor realized at that very critical moment; that was a living being; that was a child, and that he was going to end that child's life.

Even that doctor and everyone else can clearly see that this issue, Madam Speaker, that partial-birth abortion is murder. This procedure is medieval, and so is the logic of those who advocate and apologize for it. This debate is not about when life begins, for the infants targeted by this procedure are mature babies.

Madam Speaker, as lawmakers, we do have our first responsibility to preserve life and preserve the life of the most vulnerable kind, babies yet unborn in the mother's womb. Mr. SCOTT. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, very briefly I would state that the bill does not prevent a single abortion. In fact, if this bill passes, a procedure and to determine whether it should be used or not.

What is next? Last week the gentlewoman from Connecticut (Mrs. JOHNSON) in what I thought was a very poignant moment, when some were trying to outlaw contraceptives said, "Is there no limit to where this Congress will go to insert itself into the most private decisions that human beings have to make?"

Perhaps we can go further. Perhaps the next procedure we will outlaw here will be hysterectomy during childbirth. I submit that some of the people in this House think that should be outlawed.

But most importantly, I want to ask my colleagues and the American public to consider this issue: When confronted with a medical decision that could break a woman's heart and destroy her future chances to be a mother, who would she put her trust in? Would she in that circumstance want to talk to her doctor, her family, or her spiritual advisor or, as Congress has determined, would she be just as satisfied to talk to her Member of Congress?

Madam Speaker, I submit that we are no way qualified to make this decision and that on behalf of the parents who are confronted with this awful determination to be made, I pray we will not override this veto.

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

The SPEAKER pro tempore (Ms. EMERSON). The gentleman from Florida (Mr. CANADY) has 16½ minutes remaining, and the gentleman from Virginia (Mr. SCOTT) has 20½ minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I reserve the balance of my time.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Speaker, I rise today to urge my colleagues to vote against this ill-conceived and mean-spirited effort to override the President's veto of H.R. 1122.

Let us consider what we have learned since the House last considered this so-called partial-birth abortion ban. Six of the nine States that have passed these laws using language from the Federal bill have had their laws enjoined by the courts. Moreover, 18 respected judges from a range of ideological viewpoints across the country have found that H.R. 1122 is so vague and overreaching that it could prevent legal abortions throughout pregnancy.

Make no mistake about it, preventing legal abortions is exactly what the purpose of this bill is. Their goal is not ultimately to ban a specific medical procedure, but it is ultimately to outlaw abortion altogether.

Members should not just take my word for it, but look at the words of the Federal judges from across the political spectrum and across the country. Iowa District Judge Robert W. Pratt held that the partial-birth abortion law is, "unconstitutionally vague and unduly burdensome on a woman's constitutional right to an abortion."

Illinois Judge Charles P. Kocoras held that, "The statute, as written, has the potential effect of banning the most common and safest abortion procedure."

District Judge Richard Kopf of Nebraska said, "A criminal law, especially one banning protected constitutional freedoms like abortion, that fails to give words or that allows arbitrary prosecution is 'void for vagueness.' Nebraska's partial-birth abortion ban is the epitome of such a law."

Now, the esteemed gentleman from Indiana (Mr. ROEMER) said that he was glad, and I am glad too, that last week he voted to allow the free use of contraception. No one likes abortion. I abhor abortion. But abortion is what we need from time to time when pregnancies go tragically awry. In the meantime, we need contraception.

Regrettably, almost 200 of our colleagues did not agree with the gentleman from Indiana, and they in fact would ban four of the five approved forms of contraception in this country.

That is what this agenda item is about. This agenda item is not about banning abortion, but this agenda item is about ultimately banning not only abortion, but a woman's right to birth control so that she can choose the direction of her own body.
Madam Speaker, if this was such a critical problem in this country right now, why did we wait until October 1997 to override the President’s veto? We could have saved, according to my colleagues on that side of the aisle, hundreds of lives. No, this is not a critical health problem in this country. This is a political issue for the 1998 elections.

Mr. CANADY of Florida. Madam Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Madam Speaker, 25 years after Roe v. Wade, I believe it is time for a serious reality check and a compassion check as well.

Abortion methods, Madam Speaker, are violence against children. Abortion methods dismember and chemically poison kids. There is absolutely nothing compassionate about dousing a baby with superconcentrated salt water or lethal injections into the baby’s beating heart, or hacking the baby to pieces with surgical knives.

Abortion methods, Madam Speaker, are violence against children. Abortion methods dismember and chemically poison kids. There is absolutely nothing compassionate about dousing a baby with superconcentrated salt water or lethal injections into the baby’s beating heart, or hacking the baby to pieces with surgical knives.

Why do so many of us live in denial concerning this pernicious violence against children?

Today, Planned Parenthood and the rest of the abortion lobby is asking the House to sustain a misguided veto so as to permit and empower abortionists to continue to murder children as they are being born. To legally sanction an execution begs the question: Is there a Congress or a President who will not embrace under the banner of “choice”? Are the lives of little girls and boys so cheap?

Madam Speaker, earlier this month a 6-pound baby girl, “Baby Phoenix” as she is now called, was born with a skull fracture and lacerations on her face after an abortionist, Dr. John Biskind, now will not be allowed to practice medicine.

In a March 12, 1997 press conference in the House Radio-TV gallery, which was taped and recorded, my good friend and colleague, the gentleman from Maryland (Mr. HOYER), was asked directly the question health means in his proposal. The gentleman responded. “It does include mental health. Yes, it does.”

He then went on to explain that mental health would include psychological trauma. Thus, unless my colleagues believe that it should be permissible to kill a baby, even during the final 3 months of pregnancy, a premature infant, for reasons of mental health or psychological trauma, they should not support H.R. 1032. And if my colleagues believe that it should not be permissible to pull a living baby feet first into the birthing canal, puncture her skull and remove her brain in the 5th and 6th months, please vote to override the President’s veto. Support the motion to override the President’s misguided veto.

Mr. SCOTT. Madam Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. GREENWOOD).

Mr. GREENWOOD. Madam Speaker, I thank the gentleman for yielding me this time and stand to oppose the motion to discharge.

The previous speaker, my colleague from New Jersey, said it is time for a reality check and a compassion check. I think that is quite true. Let us start with the reality check.

This is where America’s work needs to be done. It does not need to be done beyond 99.94 percent of the abortions, trying to prevent unintended pregnancy, which we could do in so many ways in which we could agree: Using birth control, using education, helping define mentors for young ladies in situations where they do not have proper guidance in their lives, so they are not the victims of sexual predators way beyond their age engaging them in inappropriate sexual activities and preganatizing them.

Now, to put an end this debate about whether somehow in America women are getting late-term abortions after the 6th month for frivolous reasons, the gentleman from Maryland (Mr. STENY HOYER) and I offered a substitute to this bill which would have banned this procedure and all procedures beyond viability, beyond the 24th week, except for the most extraordinary, extraordinary medical reasons, and reasons that require compassion from all of us.

Now, to put to an end this debate about whether somehow in America women are getting late-term abortions after the 6th month for frivolous reasons, the gentleman from Maryland (Mr. STENY HOYER) and I offered a substitute to this bill which would have banned this procedure and all procedures beyond viability, beyond the 24th week, except for the most extraordinary, extraordinary medical reasons, and reasons that require compassion from all of us.

What saddens me is that we, my friends, my colleagues, are not spending our time on the floor of this body trying to prevent 99 percent of the abortions, trying to prevent unintended pregnancy, which we could do in so many ways in which we could agree: Using birth control, using education, helping define mentors for young ladies in situations where they do not have proper guidance in their lives, so they are not the victims of sexual predators way beyond their age engaging them in inappropriate sexual activities and preganatizing them.

This is where America’s work needs to be done. It does not need to be done beyond 99.94 percent of the abortions in America. Because, in fact, those abortions are rare and done for the most extraordinary reasons and, again, reasons that require our compassion.

Mr. CANADY of Florida. Madam Speaker, will the gentleman yield?

Mr. GREENWOOD. I yield to the gentleman from Florida.
Mr. CANADY of Florida. Madam Speaker, I appreciate the gentleman yielding.

Is it not true that the bill the gentleman has sponsored would give the abortionist unfettered discretion to determine when abortion will be performed during the third trimester or post viability? Because the gentleman has an exception in there that says that the abortion can be performed if in the medical judgment of the attending physician, that is, the abortionist believes it is necessary. Is that not in the gentleman's bill?

Mr. GREENWOOD. Madam Speaker, it certainly is. It certainly is. And I know that the gentleman knows the facts, because he is a student of them, but anyone who knows the facts knows that is not a loophole through which hundreds or dozens or scores of women would proceed.

The fact of the matter is that under Roe today doctors have the opportunity to allow late-term abortions for medical reasons. And the facts show indisputably that this is an exception that is not abused. We cannot find an abortionist in this country who will do a late-term abortion for frivolous reasons.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Madam Speaker, this is amazing to me. This is a vote about common decency. This is a procedure that is gruesome, it is inhuman, and it is unnecessary. The gentleman from Pennsylvania, I just answer him when he says it is rarely used, that even Everett Koop said, and I quote, "In no way can I twist my mind to see that partial birth and then destruction of the unborn child before the head is born is a medical necessity for the mother." The President has turned his back on millions of Americans who are sickened by this procedure.

To the gentleman from Pennsylvania, who said that this is a rare procedure, and then tried to cover things up with statistics, I would say that, in fact, in New Jersey alone 1,500 babies were killed with this procedure and are killed every year.

Now, we do not like to hear the details about this procedure. We do not like to talk about such things in public or in private. But, Madam Speaker, we must talk about them. The implications that we face if we do not are too far-reaching. The media rarely describes partial-birth abortion. They and some of my colleagues here today will politely call it a certain late-term procedure. Well, I submit to my colleagues that there is nothing polite about this procedure. Certainly the aborted baby, whose life is snuffed out in such a violent way, does not think that this is a polite procedure.

Madam Speaker, human life is precious. When we allow human life to be so coldly and violently taken in the manner of the partial-birth abortion, we are all diminished as a society. So I urge my colleagues to think before they vote. This is a conscience vote. Is this the kind of procedure that my colleagues would be proud to tell their children that they supported? Is this the kind of violence that they would be comfortable when it comes time to meet their maker?

This is a real gut-wrenching conscience vote. Vote to override the President's veto.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, thank the gentleman for yielding me this time, and if the gentleman would stay in the well, I would ask my friend from Texas, I understand what he has said, and I agree with his proposition of the American public's view. I ask him this. He talks about a procedure. Is there a procedure that he believes is preferable? Mr. DELAY. Madam Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Texas.

Mr. DELAY. Madam Speaker, there is no procedure that is preferable in killing a baby. But I do believe in a late-term abortion for medical reasons. And the American Medical Association let me say that this particular procedure must be used, where a baby is nearly born and then they suck the brains out of its head before it is fully born.

Mr. HOYER. Reclaiming my time, I know the gentleman wants to make this debate as gruesome as he can. I understand that. I ask him again: In the instance in which the gentleman says is acceptable, saving the life of the mother, what procedure would the gentleman think is preferable?

Mr. DELAY. And if the gentleman will yield, I will tell the gentleman that this is a gruesome procedure for the baby that it is being performed on. Mr. HOYER. I understand.

Mr. DELAY. I am once again answering the gentleman that many doctors have already said and written extensively that this particular procedure does not have to be used.

Mr. HOYER. Madam Speaker, re-
claiming my time, the gentleman does not either have an answer to my question or does not want to answer it. My proposition is that because he has no alternative, is there a procedure which he would believe was appropriate to save the life of the mother and, if so, what is that procedure.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Virginia (Mr. SCOTT) has 9⁵⁄₉ minutes remaining, and the gentleman from Florida (Mr. CANADY) has 10⁵⁄₈ minutes remaining.

Mr. HOYER. Reclaiming my time, the gentleman from Florida. Madam Speaker, I yield 4 minutes to the gentlewoman from Washington (Mrs. SMITH).

Mrs. SMITH of Washington. Madam Speaker, first I would like to read and then submit the Record the American Medical Association letter endorsing this bill and saying that it is an unnecessary procedure.

I think it is real revealing because the American Medical Association rarely takes an exception and makes illegal an abortion procedure, but they have made an exception in this case. I am going to read this short letter because it says a lot and it blows away a
lot of the smoke about how this bill works.

It says, "The Partial Birth Abortion Ban Act of 1997," as amended, that we support this. Then it goes on to say, "Although our general policy is to oppose minimalization of medical practice or procedure, the AMA has supported such legislation where the procedure was narrowly defined," and listen, "not medically indicated." Otherwise, not medically necessary. "H.R. 1122 now meets both those tests."

"On the other hand, the bill would provide a formal role for valuable medical peer determination in any enforcement proceeding. The AMA believes that with these changes, physicians will be on notice as to the exact nature of the prohibited conduct."

"They hold the baby because they know what it is; and it is not pretty, but we want this to be a campaign issue. This is going to be great," he said, adding that his colleagues who oppose abortion restrictions will face fierce questions in their districts. "They better be prepared to defend themselves because we are going to have the grassroots out there talking about it."

"That is what this is about. It is not about the women who need the health choices so they can bear more children. My good friend and colleague the gentleman from Texas (Mr. Delay) said, "where is the common decency?"

"Well, how is it for common decency when we tell a woman that she is going to lose the ability to bear more children if she cannot have a certain type of medical procedure? What is decent about that? Not a single thing. This is politics, pure and simple, and it is about as indecent as this House can get."

"Mr. CANADY of Florida, Madam Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. Christensen)."

"Mr. CHRISTENSEN. Madam Speaker, I thank the gentleman for yielding.

Yesterday I had the opportunity to manage the debate on the MFN Normal Trade Relations bill. A number of my pro-choice friends and colleagues over this side were with me on that losing battle of 160 votes. But a number of those same people that were crying out for human rights..."
in China, fighting for the forced abortions in China, talking about the issues of the Chinese women, are now on the same side of allowing this partial birth abortion bill to go forth.

Well, what about the human rights in America? Is that the human rights of the unborn children? What about the human rights of Baby Phoenix and the thousands and thousands of little children who are murdered each year? What about the human rights for those that have a say?

If we are going to stand with the Chinese women and the forced abortions, we should stand together to make sure that the children have a voice in this, the Baby Phoenixes of the world, the Baby Phoenixes of America.

Vote to override this partial birth abortion bill. Do what is right.

Mr. SCOTT. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Madam Speaker, I thank my colleague for yielding.

Madam Speaker, I rise in opposition to reconsidering this bill, and I urge my colleagues to join me in sustaining the President's veto.

We need to pass the bill that healthy women with healthy fetuses should not have post-viability abortions. But the authors of this bill do nothing to address this issue. Instead by focusing on medical procedures, the Republican leadership's partial birth abortion ban fails to fully address abortions performed post-viability and overreaches by banning abortions pre-viability.

The Republican leadership has refused to bring up a bipartisan bill that accomplishes, in fact, what their bill only achieves in nasty rhetoric.

H.R. 1032, which was introduced by the gentleman from Maryland (Mr. HOYER) and the gentleman from Pennsylvania (Mr. GREENWOOD) at the beginning of the 105th session, would ban all late-term abortions unless it was necessary to save the life of the mother or to avert serious adverse health consequences.

Unfortunately, the House leadership has presented us with the singular option of voting on H.R. 1122, which is believed by many to be unconstitutional.

Despite the fact that a modified ban would pass in the House, despite the fact that the President has said that he would sign the modified ban, this body has not even been given the opportunity to consider the Hoyer-Greenwood bill.

The House leadership is clearly not interested in passing legislation that would set public policy on the issue of late-term abortion. Instead, they have tried to depict pro-choice Members as radical and out of step with the values of mainstream America.

Further, in this debate today, unfortunately, they have chosen to demonize women and accuse doctors of medical malfeasance.

I and other supporters of the Hoyer-Greenwood bill are pro-choice and are willing to vote for a ban on late-term abortions provided that there are health and life exceptions.

If the House leadership truly wants to reduce the number of late-term abortions performed, they would bring H.R. 1032, the Hoyer-Greenwood bill, to the floor and ask the House to debate a bill that would actually accomplish something.

Mr. CANADY of Florida. Madam Speaker, I yield 2 minutes to my colleague, the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Madam Speaker, I rise in support of the motion to discharge, because we must override the President's veto of a ban on this horrendous practice of partial birth abortions.

It is an outrage that in this civilized modern society we still allow for this procedure to occur despite the mountain of evidence indicating that it is unnecessary and that it has, as the ultimate consequence of its completion, the killing of a partially delivered baby who cannot defend him or herself against the unspeakably horrid pro-life industry.

It is important to remind our colleagues what this gruesome procedure involves. It consists of partially delivering the life baby's feet first, with only the head inside the mother's womb, and then stabbing the child at the base of the skull, a child that is already able to live outside the mother's womb.

The American Medical Association said about partial birth abortion, "the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and physicians."

The AMA “could not find any identified circumstances in which the procedure was the only safe and effective abortion method.”

Even abortion practitioners, like Martin Haskell, reported to the American Medical News, “most of my abortions are in that 20-24 week range. In my particular case, probably over 95 percent of partial-birth abortions are performed for genetic reasons. And the other 80 percent are purely elective.”

Madam Speaker, Americans cannot stand idly by while this tragic procedure is performed. Many doctors have stated that this horrific practice can severely damage a woman's health. And let us not forget, it kills an innocent human life.

Let us overturn the veto.

Mr. SCOTT. Madam Speaker, could you advise us as to the time remaining on both sides, please?

THE SPEAKER pro tempore. The gentleman from Virginia (Mr. SCOTT) has 5½ minutes remaining, and the gentleman from Florida (Mr. CANADY) has 3½ minutes remaining.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentleman for yielding.

I rise today, my colleagues, not so much to speak on the veto override, although the bill in question, I believe sincerely, will not in fact stop any abortion. This is about a procedure, not about abortion. The issue should not be about a procedure. I want to make it clear, I am opposed to late-term abortions by any procedure.

I rise today to call my colleagues’ attention to legislation which has been referenced before that has as its intent stopping all late-term abortions by whatever procedure.

I asked the gentleman from Texas (Mr. DELAY) was there an alternative procedure he thought preferable. He would not answer that question. Nor will anybody on this floor. Not one. Because there is no alternative procedure that proponents believe is a preferable procedure.

The fact is I think most of us are against what the gentlewoman from Colorado talked about, elective late-term abortions. I am absolutely opposed to that, unequivocally opposed to elective late-term abortions.

Do I make exceptions in my bill? Yes. As the gentleman from Texas intoned, for the life of the mother or the unborn child is not a Member, I think, on this floor who would not vote for that exception. Not one. Then, yes, we go on to say for serious adverse health consequences to the mother, a wrenching, difficult decision for the doctor and a patient to make.

But I am opposed and believe that any ethical doctor would oppose elective late-term abortions by whatever procedure. And if they do not, the medical association ought to take them to task and our bill would impose a very significant penalty on so doing.

Whether this bill today passes or fails, I would ask the Committee on the Judiciary and ask the gentleman from Florida to report this bill to the floor. Let us debate. Let us go on record as 43 Senators in America have gone on record and say, we are opposed as public policy to late-term, elective abortions.

Period. No ifs, ands or buts, no this procedure is not good but that procedure is okay. Not deal with procedures. Deal with substance. Deal with saying that we should not have these abortions late-term for elective reasons.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

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

Mr. CHABOT. Madam Speaker, a minute is not nearly enough time to address the horrors of partial-birth abortion. But I trust that during the course of this debate the truth will come through and this body will do the right thing, the decent thing and vote to override the President's unconscionable veto of the partial-birth abortion ban. This ought to be simple. You should not kill babies.

Partial-birth abortion is infanticide. It is the termination of the life of a living baby just seconds before it takes
its first breath outside the womb. The procedure is violent, it is gruesome, it is undeniable wrong. It is the killing of a baby as it is being born.

This morning's vote is among the most important we will ever make. It is one that will long be remembered. I would urge my colleagues to say "no" to the abortion President and "no" to the most militant leaders of the abortion lobby and vote to protect the lives of helpless, defenseless little babies.

Madam Speaker, let us vote today to defend those little babies who cannot defend themselves.

Mr. CHABOT. If Mr. HABOT, if he does not like partial-birth abortion, what will he be willing to accept to save the life of the mother if he does not like this measure?

Mr. CONYERS. Madam Speaker, could I ask the gentleman from Ohio (Mr. CHABOT), if he does not like partial-birth, what will he be willing to accept to save the life of the mother if he does not like this measure?

Mr. CHABOT. Madam Speaker, will the gentleman yield?

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

Mr. CHABOT. Under the proposal we have--

Mr. CONYERS. I just answer me.

Mr. CHABOT. We would accept this procedure if the mother's life is at risk. Mr. CONYERS. Oh, you do accept it?

Mr. CHABOT. I think everybody would accept when you have a balance between the mother's life and the child's life. That is not the issue.

Mr. CONYERS. Then why are you opposing this?

Mr. CHABOT. It is wrong to kill babies, as simple as that.

Mr. CONYERS. Just a moment. No lectures, just answer the question. What about serious health risk, like sterility?

Mr. CHABOT. If the gentleman will yield further, I think the gentleman is aware of when you talk about health risk.

Mr. CONYERS. I just answer me.

Mr. CHABOT. If somebody feels bad about themselves, that is enough to allow the procedure.

Mr. CONYERS. What do you think about serious health risk, namely, fertility? What is the answer? I yield to the gentleman from Ohio.

Mr. CHABOT. Madam Speaker, I think the gentleman from Michigan is aware that if you allow an exception for health reasons, it can mean if a psychiatrist thinks that somebody is going to feel better about themselves.

Mr. CONYERS. We are talking about serious physical health. Yes or no.

Mr. CHABOT. That is not what your bill says. The bottom line is we are trying to save babies. You are always saying, let us do this for the children, let us do this for the children. Let us pass this veto override to save the children. This will really save children.

Mr. CONYERS. What about all the other procedures that you allow that we are not doing this that we are doing to protect about them?

Mr. CHABOT. The bottom line is the folks that are on our side here want to save kids. We want to save children.

Mr. CONYERS. I am talking about you.

Mr. CHABOT. While they are being born, I think we ought to join together and try to save those babies that would otherwise be born.

Mr. CONYERS. You are against protective procedures and all these other procedures. We will talk later about this.

Mr. CHABOT. I thank the gentleman for yielding.

Mr. CONYERS. It was a pleasure.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN. Madam Speaker, our civilized society must not allow President Clinton's preference for partial-birth abortions to continue. I not only speak for my fellow Kansans but also for the preborn children throughout this country whose lives are taken by this gruesome procedure.

Recently a doctor performing a partial-birth abortion realized in the middle of the procedure that he had misjudged the baby's age. She was actually only three weeks away from being in full term. Thankfully the doctor was able to stop the abortion and successfully deliver the baby. That is a happy ending.

However, the tragedy of partial-birth abortion is that any preborn baby in the third trimester has a good chance of survival. Only the abortionist's scalpel prevents the baby from having its first breath. Can we seriously allow a few inches to distinguish between a baby and a blob of tissue?

Members of Congress as well as the AMA have not found a single circumstance where partial-birth abortion was the only safe and effective abortion method. It is just not there.

The truth is this procedure poses a greater risk to the mother's health than a full-term delivery. For the health, well-being of our children, and for the future of America, we must put an end to this ghastly procedure.

Mr. SCOTT. Madam Speaker, I yield myself the balance of my time. As has been pointed out in the debate, Madam Speaker, this bill will not stop any abortion. It will just require an alternative procedure to be used. We have had no answer to the question of what that alternative should be. What we should do is the motion to discharge the committee from further consideration of the bill, require the Committee on the Judiciary to in fact consider the bill and the fact that it is unconstitutional and consider alternatives like the letting a bill that would prevent the maximum number of abortions consistent with the Supreme Court decisions. I would hope that we would defeat the motion and have the Committee on the Judiciary report a constitutional bill.

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from Ohio (Mr. HALL).

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Ohio is recognized for 15 minutes.

Mr. HALL of Ohio. Madam Speaker, I rise as an original cosponsor of this most important act, and I support this motion to override the President's veto.

Abortion, except to save the mother's life, is wrong. However, this particular procedure is doubly wrong. It requires a partial delivery and involves pain to the baby.

Madam Speaker, we have heard the medical details of these abortions from others. I believe that a compassionate society should not promote a procedure that is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

Recently many years ago, surgery was performed on newborns with the thought that they did not feel pain. Now, we know they do feel pain. According to Dr. Paul Ranalli, a neurologist at the University of Toronto, at 20 weeks a human fetus is covered by pain receptors and has 1 billion nerve cells. Pain is inflicted to the fetus with this procedure.

Madam Speaker, I do not want to discuss this bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I could not stand here and honestly debate this subject with a clear conscience if I did not spend a good portion of my time on improving hunger conditions and trying to help children and their families achieve a just life after they are born.

Enough is enough. One thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this.

Please vote to override the President's veto.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion. There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. CANADY).

The question was taken; and the ayes appeared to have it.
minute vote on the motion to discharge, and the vote on closing meetings will be conducted as a 5-minute vote.

There was no objection.

The vote was taken by electronic device, and there were—yeas 295, nays 131, not voting 8, as follows:

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<tr>
<th>Yeas</th>
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Mr. BARRETT of Wisconsin changed his vote from "nay" to "yea." So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

### PERSONAL EXPLANATION

Mr. HINCHEN. Madam Speaker, I inadvertently erred this morning when voting to discharge H.R. 1122 from the Judiciary Committee. On rollo No. 321, please let the record show that I voted to "yea."
The result of the vote was announced as above recorded. A motion to reconsider was laid on the table.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS WHEN CLASSIFIED NATIONAL SECURITY INFORMATION IS UNDER CONSIDERATION

Mr. COBLE. Madam Speaker, I offer a motion.

The SPEAKER pro tempore (Mrs. EMERSON). The Clerk will report the motion.

The Clerk read as follows:

Mr. SPENCE, moving, pursuant to clause 6(a) of House Rule XXVIII, that conference committee meetings on the bill H.R. 3616 be closed to the public at such times as classified national security information is under consideration, provided, however, that any sitting Member of Congress shall have the right to attend any closed or open meeting. The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. SPENCE). On this motion, pursuant to clause 6 of rule XXVIII, the vote must be taken by the yeas and nays.

The yeas and nays being ordered, the Sergeant at Arms was directed to close the gallery, and to cause the doors to be closed and guarded, and to open the gallery only to Members of Congress.

[Roll No. 332]
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 COPSPONSOR OF H.R. 3905

Mr. RAHALL. Madam Speaker, I ask unanimous consent to remove my name as cosponsor of the bill, H.R. 3905.

The SPEAKER pro tempore (Mrs. MOULTON). Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PARTIAL-BIRTH ABORTION BAN

ACT OF 1997—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 105-158)

The SPEAKER pro tempore. The unfinished business is the further consideration of the veto message appended to H.R. 1122, to amend title 18, United States Code, to ban partial-birth abortions.

The question is, that it be so disposed of.

Mr. SCOTT. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Ms. JACKSON-LEE).

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

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the gentleman from Virginia (Mr. SCOTT) for yielding me this time.

Madam Speaker, I wish we could discuss this very serious issue with a bowl full of truth and not one of jelly beans. When a woman is faced with this terrible decision, she is one that she should face without government interference. Frankly, I think the American people do not want Democrats playing God, and the Republicans certainly should not play God.

This is a very serious issue, and if the Republican Majority was so concerned about the loss of lives of babies, when the President vetoed this legislation in October of 1997, we could have swiftly moved to committee and looked at opportunities in order to save the mother's life and to protect the mother's health.

But, Madam Speaker, it is July 1998, just a few months from election, and here we are with the lives of women. We have 200 million citizens, over 51 percent of them women. I would imagine that 3,000 babies pale to how many have been delivered.

Madam Speaker, as a mother, I love children and I love the wonder-ful birth of children continue and the loving families to nurture them. But how many have listened to the pain that I have listened to? We have had women come and testify saying that they wanted more than to have a healthy baby and to have an opportunity to give birth in years to come. Their doctor insisted, because of the health and the life of the mother to be able to be viable for birth again, that this procedure was a necessary procedure.

Yet, the Republicans want to tell us that they override the President's veto today so they can stand on the right side of this issue. This legislation will deny the physician, the woman's God, and her family to determine any type of procedure. No procedure will be allowed.

Mr. COBURN. Madam Speaker, I just ask that this override not take place, because I stand with those who want life and the opportunity for life.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, I just want to clarify three misstatements of fact that were just made. Number one, the ban on partial-birth abortion never puts a woman's fertility at risk. That is number one.

Number two, this bill does allow in the instance of the life of a mother, if it is at risk, a partial-birth abortion to be done. We do not think that is ever the case, and I know that as a physi-cian never to be the case, but we allow that under the law.

And, if a child has a terminal defect, what could be better than having it be born and loved rather than killing it?

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from Oregon (Ms. FURSE).

Ms. FURSE. Madam Speaker, there is only one question that the people of America need to ask themselves in this debate. Only one. That is: “Do you want a physician in your doctor's office making this decision with you, or do you want a politician?”

Madam Speaker, I am not a physici-an. I am a politician. I will not make this decision for the women and families of this country, and no other politici-an should make that decision for them.

Mr. CANADY of Florida. Madam Speaker, I yield 1½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Madam Speaker, I am a mother myself and married to a physi-cian. There is very little that any of the previous speakers can tell me about abortions and about pregnancies and about life that I do not already know.

The one thing I do know is our Constitution guarantees us the right to life, liberty, and the pursuit of happiness. The most fundamental of those things is life.

In our State laws in many States, the sanctity of unborn life is already regarded as a right. Let me tell my col-leagues how. Criminally, if a woman is assaulted and loses her child, the per-son who assaulted her can be charged with manslaughter, can be charged with murder. Even if the mother survi-ves, that child, that unborn child, has a right to live.

If someone negligently kills the fa-ther of an unborn child, the mother or
a guardian can sue on behalf of that unborn child for negligence. So in the civil courts, we recognize that unborn children have a right to live.

And to think of delivering a child up to its head and then removing the brain and then cutting the neck and head with scissors and allowing it to bleed to death. It is a mortal sin. It is a legal wrong. It is against everything that we stand for in this country.

Madam Speaker, I urge my colleagues to vote to override the President’s veto.

Mr. SCOTT. Madam Speaker, I yield myself 15 seconds.

Madam Speaker, I want to place in the record the words of the American College of Obstetricians and Gynecologists, who said that the intact D&E may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only a doctor in consultation with the patient should make that decision.

Madam Speaker, I yield 2 minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Madam Speaker, what I have heard thus far, it seems as though we are trying to make the victims of a tragic situation the culprits. For a man, as a husband, as a father, and as having the opportunity of talking to many of the women that had to undergo this tragic circumstance, one would think that from the other side that these women went through this willingly and they went through this as a mechanism to get rid of a child.

They went through it because of no other alternative, because of serious health results that would have happened had they delivered this child, or because of bad chromosomes, malfunctions with reference to a child.

I dare say that most, not most, 95 percent of the women that have to undergo this unfortunate circumstance, this never leaves them. How do I know? I just look at a woman who may have lost a child, for she wanted to have that child, and I can just testify to the fact that just a few months ago, my wife and I lost a child and my wife had to undergo a special procedure for her health to get the child out of the womb.

My wife still has not recovered from that, for she had no other alternative because the doctor said that if the fetus stayed in any longer, she could have some serious health ramifications.

So this is not a procedure that one does out of convenience, this is what one does out of kindness, out of respect for this woman. Without her, I would be nothing and there would be no chance to have another child.

Mr. CANADY of Florida. Madam Speaker, I yield 30 seconds to the gentleman from Oklahoma (Mr. COBURN).

Mr. COBURN. Madam Speaker, let us clarify for the American public, the vast majority of all partial birth abortions that have been performed in this country have been for the elective termination of a late pregnancy, not associated with a fetal malformation associated with a malformation or an inconsequence of reproduction, but associated with elective termination of viable children.

Mr. SCOTT. Madam Speaker, I yield 15 minutes to the gentleman from New York (Mr. MEEKS), he tells us the story of our colleague, the gentleman from New York (Mr. MEEKS), he tells us that it is sometimes necessary. It is that “sometimes” that makes it the reason that the American College of Obstetricians and Gynecologists, the American Nurses Association, and the American Medical Women’s Association are strongly opposed to this legislation. It is because sometimes that is the right decision to be made between the mother, the family, and their doctor.

It continues to amaze me, Madam Speaker, that Members of this House have so little faith in women, the very people who bear and raise the children of this country, that they would deny them access to life-saving procedures out of an outrageous notion that pregnant women would elect to abort a child in the late term of that pregnancy.

Mr. GOODLATTE. Madam Speaker, I yield 45 seconds to the gentleman from Oklahoma (Mr. COBURN), to respond.

Mr. COBURN. Madam Speaker, what we are talking about is infanticide. We have seen the debate as something other than that. There is nothing in this bill that denies any woman access to quality care denial, the ongoing care or reproductive care. I understand that is the debate we are using to say that we believe any baby at any time ought to be able to be terminated. But there is no difference between this procedure and infanticide.

As to the question of Roe versus Wade, the Supreme Court said they did not know when life began. Well, the fact is, as we determine death in this
country as an absence of brain waves and an absence of heartbeat, and at 41 days post last menstrual period, every fetus, female and male, have a heartbeat and a brain wave.

Mr. SCOTT. Madam Speaker, I yield 30 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. If the gentleman from Oklahoma would answer a question, I would appreciate it.

My question is does the gentleman consider the story that the gentleman from New York (Mr. MEEKS) was telling us about his wife and his lost baby infanticide?

Mr. COBURN. Madam Speaker, will the gentlewoman yield?

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

Mr. COBURN. No, I did not say that. I said the partial-birth procedure is a question of infanticide. There are lots of mistakes of reproduction. Never is it necessary to use the partial-birth abortion procedure to solve that problem.

Mr. GOODLATTE. Madam Speaker, I yield 1 minute to the gentleman from Michigan (Mr. HOEKSTRA).

Mr. HOEKSTRA. Madam Speaker, I thank the gentleman for yielding me this time.

The question today before us is not only the question of life or death for thousands of partially born children in our country, but it is also a question of who owns that life.

What kind of people are we? What kind of people are we when we are so unwilling to defend the smallest, most helpless and vulnerable among us? Partial-birth abortion is a sick, gruesome procedure. It is a violation of the most basic of human rights. It is a violation of the right to the gift of life.

We shudder when we see brutality in warring nations, we shudder when he hears stories of genocide and ethnic cleansing, we shudder when we see pain and death around the world. But do we shudder when we consider the reality of partial-birth abortion? Do we shudder to think that here in the United States this is a legal procedure?

The President has acted out of a cold disregard for human life. His veto is a shameful act and it is unacceptable.

Mr. SCOTT. Madam Speaker, I yield 3½ minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Speaker, I rise to oppose this attack on the fundamental rights of American women. Members of this House have tried time and again to limit the right to choose. They have imposed restrictions on Federal employees, on those who receive Medicaid, on women in the military, on women in prison, and on women under the age of 18. But they do not stop there. We saw last week their efforts to limit access even to birth control. We even heard a gentleman argue that the birth control pill is a form of abortion.

Their agenda is quite clear. Despite the fact that the Supreme Court has upheld the fundamental right of choice, it is their stated agenda not only to outlaw abortions by any means, but to limit access to birth control for millions of American women. That is why this vote today is so critical. It is an attempt to subvert the rulings of the Supreme Court. It is an attempt to uproot the legislative portion of their plan to eliminate the right to choose and to the availability of contraceptives.

When we debated this bill a year ago we argued that it was unconstitutional and that the time has proven us right. In 17 States courts have enjoined so-called partial-birth abortion bans as unconstitutional because they are vague, they fail to provide physicians adequate notice as to what is prohibited, they provide no exception whatsoever to preserve a woman's health, and only a dangerously inadequate exception to preserve a woman's life. Six of these unconstitutional State laws have virtually identical language to this bill today.

The bill is fundamentally flawed for another reason. It is based on the principle that politicians, not doctors, ought to make medical judgments about what procedures are appropriate. I urge my colleagues who may be inclined to vote for this bill to carefully consider exactly why they are pro choice.

If Members are pro choice because they believe it is a woman's decision, not the government's, about whether or not to have an abortion, then they should vote against this bill. If my colleagues believe that sometimes abortions are necessary to protect the health or life of a woman, then they should vote against this bill. If they believe that doctors should not be denied the option of using a medical procedure as they deem appropriate, then they must reject this bill. If they believe in the fundamental principles of Roe v. Wade, they must not support this bill, which severely restricts a woman's rights to choose.

Make no mistake, this bill is not about one particular procedure; it is about the fundamental right to choose.

I urge my colleagues to defend a woman's right to choose and to reject this dangerous bill.

Let me close by quoting a letter of a woman from New York City who faced a tragic situation involving a fetus with a severely deformed heart and who would have been affected by this bill had it already become law. She writes, and I quote, "You must hear our voices before you vote on this misguided bill, as well as the voices of other mothers and fathers who weep over their empty cribs. We are not bad people. We are extremely unfortunate, suffering families trying to cope with personal tragedies. Please don't condemn our wounds by taking away our choices. Please vote against H.R. 1122."

It could not be said better. Who are we to tell women in such tragic situations what they should make these choices, not politicians.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Virginia (Mr. GOODLATTE), a member of the Committee on the Judiciary.

Mr. GOODLATTE. Madam Speaker, every year this heinous procedure is performed thousands of times on healthy mothers, usually in the 5th and 6th months of pregnancy. For these tiny children, the difference between a painful death and full protection of the law is literally four inches. Four inches; the difference between death and life.

The President has acted out of a cold disregard for human life. His veto is a shameful act. But today my colleagues have an opportunity to override the President's shameful veto.

Mr. SCOTT. Madam Speaker, I yield ½ minute to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Madam Speaker, I thank the gentleman from Virginia for yielding me this time.

I have been sitting here listening to this, and then I know tomorrow that I have to take some votes on managed care because we are very concerned about insurance companies who are going to and have been making decisions on people's health care.

Today, the question that I have to ask, and which just really bothers me, is today my colleagues want me to vote to allow Congress to make a decision on my medical care and not a doctor. But tomorrow they are going to tell me that a doctor should be making my decision and not the insurance company. Somewhere something is wrong in this place.

Mr. CANADY of Florida. Madam Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Speaker, abortion is the most violent form of death known to mankind. It is violence against children and it is violence against women. When will liberals begin to truly seek protection for American women?

Listen to this statement by Dr. Camilla Hersh, member of the Physicians' Ad Hoc Coalition for Truth, which details the violence of a partial-birth abortion.

Consider the grave danger involved in a partial-birth abortion. A woman's cervix is forcibly dilated over several days. This risks creating an incompetent cervix, a leading cause of subsequent premature delivery. It also risks serious infection, a major cause for subsequent infertility. Partial-birth abortion is a partially blind procedure, done by feel, thereby risking scissor injury to the mother's uterus and laceration of the cervix or lower uterine segment. Either the scissors or the instruments can enter the uterus and disrupted skull bones can roughly rip into the large blood vessels which supply the
lower part of the lush pregnant uterus, resulting in immediate and massive bleeding.

Let us stop kidding ourselves. Partial-birth abortion is violence. Let us override the President’s veto.

Mr. SCOTT. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I have joined several of my colleagues in supporting a bill that will actually prohibit all late-term abortions, consistent with the Constitution. We have heard that bill described. It is consistent with the law. And if we want to prohibit as many abortions as possible, we ought to consider that bill.

We have heard suggestions that some physicians think that the partial birth abortion ban is appropriate. Other physicians think that it ought to be an option for physicians. That decision ought to be left to the physicians. This will not prohibit any abortions. It will just regulate some women to procedures which their physician thinks may kill, maim, or sterilize them. And that is why this bill ought to be opposed.

Mr. CANADY of Florida. Madam Speaker, the statement that this will not eliminate any abortions is not a correct statement. The vast majority of partial birth abortions are elective abortions. Elective. That means somebody who is pregnant who does not want to be pregnant. It has nothing to do with the quality of life of the child. It has to do with the choice to kill a baby at any stage. So this is about eliminating abortions in this method.

Number two, end this procedure. Everyone who practices medicine realizes this is a terrible procedure. This is not medicine. This is death.

Mr. CANADY of Florida. Madam Speaker, I yield myself 1 minute to my colleague, the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Speaker, I rise in support of the gentleman from Florida (Mr. COBURN).

Mr. COBURN. Madam Speaker, the statement that this will not eliminate any abortions is not a correct statement. The vast majority of partial birth abortions are elective abortions. Elective. That means somebody who is pregnant who does not want to be pregnant. It has nothing to do with the quality of life of the child. It has to do with the choice to kill a baby at any stage. So this is about eliminating abortions in this method.

Number two, end this procedure. Everyone who practices medicine realizes this is a terrible procedure. This is not medicine. This is death.

Mr. CANADY of Florida. Madam Speaker, I yield myself 1 minute to my colleague, the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Speaker, I yield myself 30 seconds to the gentleman from Florida (Mr. COBURN).

Mr. COBURN. Madam Speaker, I understand and respect those who disagree with my opinion on this procedure. They have my respect. I disagree with them. But I wanted to describe an alternative to this. There is not a fetal malformation that this is required for. ACOG says that. Their words are “may.” It is not “must.”

I want to tell my colleagues about patients that I have delivered who have had these tremendous malformations of their children. And I want my colleagues to decide, is it easier to kill a baby four-fifths of the way out of the mother and lie to her about the real chances of the child having a long life? Is it better to encourage her to carry her baby to term even though it is not going to live and give her the opportunity and the husband, the mother and her husband and the father, an opportunity to hold and to love and to care for part of us?

I want to tell my colleagues about Jakey. Jakey had a courageous mom and dad. Jakey was a patient of mine. His mother and father could have chosen to go to Kansas or lots of other places and have a termination. But what they chose was life. Maybe a very short life, but they chose life.

They chose 4½ hours of life for Jakey. They chose 4½ hours where they could hold what God had given them and say, we will deal with this. We will not run away from it. We will put it out as a convenience. We will deal with the fact that life sometimes brings us things other than perfect and we will face that.

Partial birth abortion, whether it is for an elective procedure or for a fetal malformation, dunks the very value of life that all of us, whether we are pro-choice or pro-life, know we have to have as a society that is going to continue.

And to deny the truth, and that is what this whole argument is about, the truth that we can do it some other way that serves us as a human race in a much far better way that teaches our children to value life rather than to throw life away, we do a disservice to our Constitution, we do a disservice to the human race.

What is it that I would ask my colleagues to think about. They may not be the most convenient ways to handle the problem. They may not be the fastest ways to solve the problem. But they are by far the best way to solve the problem.

Mr. SCOTT. Madam Speaker, I yield myself 30 seconds to the gentleman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. There is not much quarrel that we can have with anyone who advocates life. There is not much quarrel that we can have with anyone who advocates life. Ms. JACKSON-LEE of Texas. There is not much quarrel that we can have with anyone who advocates life. Ms. JACKSON-LEE of Texas. There is not much quarrel that we can have with anyone who advocates life. Ms. JACKSON-LEE of Texas. There is not much quarrel that we can have with anyone who advocates life. Ms. JACKSON-LEE of Texas. There is not much quarrel that we can have with anyone who advocates life.

What the doctor fails to realize is that what we are arguing for is the right of the woman, with her special relationship, her God, and her medical professional to make the decision. It is interesting that we would discuss life in this context, when many of those who stand on the floor of the House or human being who would advocate against life.

What the doctor fails to realize is that what we are arguing for is the right of the woman, with her special relationship, her God, and her medical professional to make the decision. It is interesting that we would discuss life in this context, when many of those who stand on the floor of the House would support the death penalty. We have all said the contrary.

Mr. SCOTT. Madam Speaker, I yield myself ½ minute to the gentleman from Alabama (Mr. ADERHOLT).
Mr. ADERHOLT. Madam Speaker, I know many have heard about the news and it will be or has been discussed today about the abortionist in Arizona who delivered the little girl and later discovered that he had misguessed the child's age. At 23 gestational weeks old, the little girl had reached the age of about 36 weeks on June 30, when her 17-year-old mother subjected herself and her baby to a planned partial birth abortion at an AZ Women's Center in Phoenix.

The first time this abortionist had this happen to him. He is currently being sued because one of his patients bled to death following an abortion in 1996. But the story of this latest mishap, which came to light just this past week and received wide coverage across the country, is just one more reason why we need to ban this procedure, which is cruel form of infanticide, pure and simple.

Abortionists across the country know partial birth abortions on babies as young as 20 gestational weeks, and they will continue to kill these babies and endanger the lives if we do not act today to override President Clinton's veto of the Partial Birth Abortion Act.

A baby delivered prematurely between 23 and 24 weeks would have a one-in-three chance of survival in a neonatal unit if delivered under normal circumstances and certainly would not feel the excruciating pain of a partial birth abortion.

So the question we will vote on today is quite simply whether we oppose allowing a fetus to suffer excruciating pain or whether we support life.

I am proud to stand here today with those who oppose infanticide and support life.

Mr. CANADY of Florida. Madam Speaker, may I inquire of the Chair concerning the amount of time remaining?

The SPEAKER pro tempore. The gentleman from Florida (Mr. CANADY) has 15 minutes remaining, and the gentleman have Virginia (Mr. SCOTT) has 14 minutes remaining. Mr. CANADY of Florida. Madam Speaker, I reserve the balance of my time for the purpose of closing.

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

Madam Speaker, the gentleman from Oklahoma (Mr. Coburn) suggested that we disagree with his decision. I do not agree or disagree with his decision. What I disagree with is Congress making the medical decision.

This bill will not prohibit a single abortion. There will be alternatives which were not described other than they are just as gruesome as this one, and those alternatives would be used.

The bill, without the health exception, puts us in a situation where we will either allow or the woman, if the bill does not pass, might have a choice of having a procedure that will not sterilize her by using this procedure. If this bill passes, the only alternative may require her sterilization. I do not think we ought to be making that choice for her than the one procedure is more preferable than the one that may sterilize her.

Finally, Madam Speaker, this bill is unconstitutional, and everybody knows it. People have indicated they disagree with Roe v. Wade. The bill is unconstitutional. If we want to prohibit late-term abortions, we ought to pass the Hoyer-Greenwood bill.

Madam Speaker, I yield the balance of my time to the gentlewoman from New York (Mrs. LOWEY).

The SPEAKER pro tempore. The gentlewoman from New York (Mrs. LOWEY) is recognized for 13 minutes.

Mrs. LOWEY. Madam Speaker, I thank the gentleman for yielding.

I rise in strong opposition to the bill. Because this legislation, my colleagues, puts the lives and health of women at risk and it tramples on the constitutional right of every woman in this Nation.

Unfortunately, the GOP leadership has been waging war on abortion rights since taking over this House in 1994. This is the 93rd vote on reproductive rights in less than 4 years. 93 times. The goal is clear, ban every abortion procedure by procedure, month after month.

Madam Speaker, we have a different vision. Mr. SCOTT. Madam Speaker, will the gentlewoman suspend for just a minute?

I understand that, prior to the close, they will ask for a Call of the House; and I think it would be appropriate for both closing speakers to be heard, and at this time I would suspend for the motion.

CALL OF THE HOUSE

Mr. CANADY of Florida. Madam Speaker, I move a call of the House.

The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore.

Mr. CANADY of Florida. Madam Speaker, the following Members respond to their names: [Roll No. 334]
Madam Speaker, I rise in strong opposition to this bill. This legislation puts the lives and health of women at risk, and it tramples on the constitutional rights of every woman in this Nation. The GOP leadership, unfortunately, has been waging war on abortion rights since taking over this House in 1994. This is the 93rd vote on reproductive rights in less than 4 years; 93 times. The goal is clear: ban every abortion procedure by procedure, month by month.

Madam Speaker, we have a different vision. We want to reduce the number of abortions, not by making them illegal, but by empowering women to make healthy choices about their own reproductive health care.

Last week, we had a crucial vote in this House on a measure that will help reduce the number of abortions in the United States. That initiative will ensure that Federal employee health plans cover prescription contraceptives. It passed because the American people are tired of these polarizing debates. They want common sense solutions to preventing unintended pregnancy and reducing the number of abortions. Every effort to contraceptive coverage is one such approach; the bill before us, frankly, is not.

My good friend, the gentleman from Florida (Mr. CANADY), and we have worked together on many issues. However, any contraceptive amendment, in my judgment, will prevent more abortions in a week than this bill ever will. It will do so by improving women's health, not by endangering it.

I am only sorry that the gentleman from Florida could not join us last week in supporting contraceptive coverage because that is the way that we will really reduce unintended pregnancies and prevent abortions.

So let us reduce the number of abortions. But, instead, we are, once again, considering this divisive issue. In fact, this is the sixth time this bill has come before the House. Each of those times, we tried to offer an amendment to the bill to protect the health of the mother, and each time the Republican leadership blocked us. We offered to sit down with the Republican leadership, craft a health exception that we could all accept. The Republican leadership refused.

The President will sign this bill if it protects the health of the mother, but the Republican leadership will not even give us a chance to make this change. Let me repeat, the President will sign this bill if it contains an exception to protect the health of the mother, but the GOP leadership refuses to put one in. So the Republicans, unfortunately, would rather debate this issue again and again and again rather than send the President a bill that he could sign.

This bill is not about reducing abortions. It is about defeating Democrats. This is election-year politics, plain and simple. But do not take my word for it. Leading GOP strategist Ralph Reed called this "a winning gold-plated issue." A winning gold-plated issue. Is that not unfortunate that that is why we are here today.

I heard reference in the debate before to liberals. In fact, two of my colleagues, my good friends, refer to people who oppose this ban as liberals. I just want to tell my colleagues, as a woman, that when you are there making this very difficult decision, and we have seen these women come to my offices to discuss the decision that they had to make to preserve their future fertility, they were not making this decision with their family, with their physician, with the member of their clergy, as a Democrat, as a Republican, as a conservative or a liberal. They were making this decision as a woman in distress who had to make a very, very difficult decision and think it is time for us to stop playing politics with the lives and health of American women. We must ensure that women have access to abortion if their lives and health are endangered.

I ask my colleagues to think about the other side of the aisle, whose health would you sacrifice? Which one of us? Which of our daughters is expendable? The health of every woman in this Nation is precious. Each of us, mothers, wives, daughters, is irreplaceable.

Women like Tammy Watts, Claudia Addes, Maureen Britel, these women testified before Congress that this procedure protected their lives and health. These women desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. How demeaning to a woman to even consider that that is an option. They did not abort because their prom dresses did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

So who in this chamber will stand in the operating room and limit their options? Who, at this agonizing moment, will decide? Who will make that difficult decision, the Congress of the United States or the woman, families, physicians, and members of the clergy of America?
terminates a pregnancy casually. No woman makes this decision lightly.

Madam Speaker, we have to trust the women of America to exercise this right thoughtfully, deliberately, judiciously, and we must empower them to do so. We must not give up on the women of America, not the government. We have to trust the women of America to make this very, very personal choice.

Madam Speaker, I urge my colleagues to say no. Put your faith in the women of America, not in this Congress, to make this very, very personal decision.

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

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. HYDE), Chairman of the Committee on the Judiciary.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. HYDE) asked and was given permission to revise and extend his remarks.

Mr. HYDE. Madam Speaker, first of all, I want to thank the chairman for all allowing so much time to me. I hope and pray I do not use it all. I know I express the feelings of everyone in the chamber that I do not use it all.

I also want to say at the outset that I will yield, and I would appreciate the courtesies of not being interrupted, because I do not choose to yield.

I also want to briefly respond to my good friend, the gentleman from New York (Mrs. LOWEY). I do not know any one I admire more than she. This is a soul-wrenching issue. Your passion, your commitment, is respected on my side, and certainly by me, and all I ask is that you respect our passion and our commitment, because people of goodwill can be on both sides of this issue.

That is the wonder and the beauty of this debate, that we are here today talking about the most fundamental issues, life and death, health versus a life. That is the problem. You are trading apples and oranges, or chickens and horses. A life and health.

To me if you put those on the scale, life weighs heavier. Health has been defined by the Supreme Court almost amorphously. It is a state of well-being, Roe v. Wade and the other cases. Doe v. Bolton, they defined health for us in the most poetic way, a state of well-being.

So the problem is, if health is an exception and the abortionist defines what is an impairment of health, I would suggest that the little unborn ought to have an Independent Counsel, because there is a conflict of interest there between the abortionist finding that a woman's health will be impaired. So it is not a simple question.

Does it impede the medical care? Over half the children that are aborted are women. I do not want to demean women; my God, no. I was married for 45 years. I have had a mother, a sister, a daughter. I never would want to demean women. But I do not want to trivialize the unborn either.

Now, I go through life trying to offend as few people as possible, and I do so. I have found some people today, because I want to talk about slavery. I am keenly aware that there are some people who resent bitterly any discussion of slavery or the Holocaust, emphasizing the uniqueness, the singularity of those two realities that are in human history, and saying that nothing can compare to them in evil, and I agree.

I think slavery is absolutely unique in its horror and in its evil, and I think the Holocaust similarly is unique. But there are lessons to be learned. History is nothing if it does not teach us something. I analogize, I do not compare; I look for the common thread in slavery, the Holocaust and abortion, and, to me, the common thread is dehumanizing people. Make that point, because I think we have to learn from history, so that at least in this context, past will not be prologue.

So I would like to tell you about a recent movie I saw called Amistad, a movie that was shot in Spain and put in the African slave trade in 1839, where some 39 survivors of the mutiny found themselves in a legal battle before the United States Supreme Court. It is based on a true story, and they are represented by an elderly, infirm John Quincy Adams, played magnificently by Anthony Hopkins.

Adams' summation to the Supreme Court struck me as remarkably appropriate to the issue before us today. Adams tells the justices that this is the most important case ever to come before the court because it concerns the very nature of man. Of course, that was the central issue in debating the legitimacy, the morality of slavery, namely, is the slave a chattel, mere property, to be bought and sold? Or is he or she a human being with human rights?

We here today make the same argument, that that little, almost-born baby, whose tiny arms and legs are flailing, whose little chest harbors a heart, whose tiny arms and legs are flailing, whose little chest harbors a heart, is a human being, with human rights, even if his or her human life can be snuffed out by the plunge of the abortionist's surgical scissors into the back of her tiny neck.

Yes, warranting abortion concerns the very nature of man.

Later Adams stands near a framed copy of the Declaration of Independence and he asks the question that we support a human life have been asking for years. Looking at the Declaration, he says, 'What of this annoying document? This Declaration of Independence? What of its contents, all men created equal, inalienable rights, life, liberty and so on. What on earth are we to do with this?'

He then says he has a modest suggestion, and he takes a copy of the Declaration and tears it up.

A tall, impressive man, Cinque, exuding strength, is the leader of the slaves, and he has told John Quincy Adams that in his tribe in Sierra Leone, the Mende, when they encounter a hopeless situation, they call on their ancestors. He tells him that the court should look at this, that if they summon the spirits of their ancestors, their wisdom and strength will come to their aid. He then points to Cinque and speaks of his ancestors, from the beginning of time, and says the court that this man, Cinque, is the whole reason his ancestors have ever existed at all.

When you think about it, each of us has ancestors that go back to the beginning of time, and we, here now, are the whole reason they ever existed. We are their progeny, we are their culmination. And just think of what our ancestors had to endure through the long and bloody centuries, the Four Horsemen of the Apocalypse, conquest, slaughter, famine and death, wars and plagues, natural disasters. And they survived it all, so that we might be born here and now, to debate the issue of partial-birth abortion.

So we have this little infant, arms flailing, legs squirming, little heart pounding away, and, with the plunge of the abortionist's surgical scissors, in a painful and cruel instant, that ancestral odyssey through the centuries is extinguished.

Think of Whittier's great lines:

"Of all the sad words of tongue or pen, The saddest are these; "it might have been."

Loneliness. We all know something about loneliness. It is one of life's most mournful experiences. We have all been lonely, and it teaches us how much we humans need each other.

What a special loneliness it must be for that little almost-born baby to be surrounded by people who want to kill him. I stand in awe of anyone who could perform, much less participate in, such a grisly inhuman act. It must take a heart of stone and a soul of ice. What is the motive for this? The motive to override is to legitimize thousands of acts of appalling cruelty, not to an animal, a creature of the sea or of the forest, but a fellow human being who has the misfortune to be temporarily unwanted. You have this chance today to put an end to the process of unspeakable destructive cruelty, unworthy of a civilized society.

Our beloved America is becoming "The Killing Fields." One state has accepted euthanasia, so the elderly can be killed legally, and the abortion culture has resulted in 35 million abortions since Roe v. Wade in 1973. Kill them in the womb, and now, with partial-birth abortion, they have a wolf in sheep's clothing, killing them.

Those whose real agenda is to keep all types of abortion legal, at any stage, for any reason, have built their case on a lie after lie. There is no polite way to say this. Deceptive? Misinformation? If one wants to be intellectually honest, you have to call a lie what it is.
H6210

CONGRESSIONAL RECORD – HOUSE

July 23, 1998

First they claim this procedure did not exist. When a paper written by the doctor who invented it surfaced, they changed their story, asserting it was only used when a woman’s life was in danger. But then the same doctor admitted that for a few days no woman was able to obtain an abortion, in order to see the true breadth of this ban. In mid-May, an anti-choice judge refused to grant a temporary injunction against the state’s “Partial Birth Abortion Ban.” Upon learning of this decision, abortion providers in Wisconsin refused to provide any abortion for fear of prosecution under this broad ban. Fortunately, the Seventh Circuit Court overruled the judge and the health of Wisconsin women is once again protected. It is clear that H.R. 1122 is unconstitutional. State versions of partial birth abortion bans, have been blocked or limited by federal and state courts. Many of these cases involve laws modeled after H.R. 1122. Based on these decisions, it is clear that H.R. 1122 is unconstitutional.

As of July 9, 1998, 28 states have enacted legislation banning so-called “partial birth abortion” or other abortion procedures. Court challenges regarding these laws have been initiated thus far in 20 states. In 18 of those, courts have partially or fully enjoined the laws. In 7 of those 18, courts have permanently enjoined the laws.

Only three courts have not enjoined state “partial birth abortion bans” when they have looked at the statutes. However, in Alabama, which is one of the three states, the court has not ruled on the merits, but the Alabama Attorney General has directed the state’s district attorneys to enforce the statute only after viability. The Alabama court did not rule on the merits of the case at this time, because the court was very unclear about the meaning of various terms in the statute, such as the meaning of a “partial birth abortion.” As a result, the court will not issue a final ruling, pending further explanation about the meaning of the statute from the Alabama Supreme Court.”

Dr. Koop reacted to the President’s veto with this statement: “I believe that Mr. Clinton was misled by his medical advisors on what is fact and what is fiction. The procedure that ‘cannot truthfully be called ‘medically necessary’ for either mother or the baby.”

Gee, the administration listens to Dr. Koop on tobacco. I wish they would listen to him on partial-birth abortion. Former Surgeon General C. Everett Koop once said on Nightline, and these are his words, “I think the American people have the right to know the truth about partial-birth abortion. I wish they would listen to us on partial-birth abortion.”

For over two centuries of our national history, we have struggled to create a society of inclusion. We keep widening the circle for those for whom we are responsible, the aged, the infirm, the handicapped; Social Security for the elderly, all in the name of widening the circle of compassion and protection.

This great trajectory in our national history has been shattered by Roe v. Wade. This summer, we may be able to undo the injury. Roe v. Wade was a precedent that should not be equated with the partial birth abortion procedure. Roe, 410 U.S. at 154–65, 93 S. Ct. At 732. Without such an exception, this legislation could jeopardize women’s health.

Of course, the Republican leadership has little interest in developing a credible and serious constitutional amendment that could be signed into law. Instead, they prefer a “wedge” issue that can divide the American people. That’s why they wouldn’t make a single amendment concerning health in order.

But H.R. 1122 has no health exception, and the Senate killed it to that reason is because its authors have determined that under the potential of life of a fetus. To them, the partial birth abortion ban is merely a means of preventing abortion providers in Wisconsin refused to provide any abortion for fear of prosecution under this broad ban. Fortunately, the Seventh Circuit Court overruled the judge and the health of Wisconsin women is once again protected.

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And in Virginia, a single Circuit Judge for the U.S. Court of Appeals for the Fourth Circuit granted a stay of the injunction issued by the district court, allowing the law to go into effect. (Richmond Medical Center for Women v. Gilmore, No. 98–1930 (4th Cir. June 30, 1998) (Luttig, Cir. Judge). This makes Virginia the only state where a Court has gone against the grain and overturned a preliminary injunction against a ban.

But in the majority of cases, there is no question that courts have overwhelmingly come to the conclusion that so-called “partial birth abortion” statutes are patently unconstitutional. Some of the language from these cases is especially illustrative. For instance, a federal district judge in Arizona held that Arizona’s statute, which was modeled on H.R. 1122, “unconstitutionally burdens a woman’s right to
terminate a nonviable fetus, and that the Act is void for vagueness in that it does not sufficiently define the conduct which is attempts to proscribe. "Planned Parenthood of Southern Arizona v. Woods, 982 F. Supp. 1396 (D. Ariz. 1997).

In Monroe, a court held that the statute that was modeled after H.R. 1122 was unconstitutional because it "likely infringes on the constitutional rights of women. . . . the protection of constitutional rights clearly outweighs any interest the state may have in promoting the interests of the fetus with a statute that is unconstitutional." Planned Parenthood v. Miller and Niebyl v. Miller, Civ. No. 4--98--CV--90149, 1998 U.S. Dist. LEXIS 9851 (D.S.D. Iowa, June 26, 1998).

In addition, most of the medical and legal experts who have reviewed the legislation note that it is extremely vague and broad, and as a result, may outlaw abortion procedures at ANY stage of pregnancy. In fact, in my home state of Michigan, on July 31, 1997, a federal District Court Judge Gerald Rosen struck down Michigan's "partial-birth" abortion ban, finding it so vague that doctors lacked notice as to what abortion procedures were banned. Evans v. Kelley, 977 F. Supp. 1282 (E.D. Mich. July 31, 1997).

Moreover, the court found that the state law unduly burdened women's ability to obtain an abortion. The partial definition of "partial-birth" was so vague that doctors lacked notice as to what abortion procedures were banned. Evans v. Kelley, 977 F. Supp. 1282 (E.D. Mich. July 31, 1997). However, the court found that the state law unduly burdened women's ability to obtain an abortion. The partial definition of "partial-birth" was so vague that doctors lacked notice as to what abortion procedures were banned.

I support legislation, H.R. 1032, the Late Term Abortion Restriction Act, which would ban all late term abortions while protecting the life of the mother. It is my fervent hope that the Senate will respond in kind and support this noble effort.

Mr. KOLBE. Madam Speaker, over the past several months, Congress and the American people have endured a wrenching debate concerning the issue of "partial-birth" abortions.

Like most Americans, I do not support abortion on demand. In fact, I am opposed to any late term abortion by whatever method, unless it is performed to save the life of the woman or to avert serious adverse consequences to her health.

The Congressional debate has centered, thus far, around legislation introduced by Congressman CHARLES CANADY, H.R. 1122, the Partial Birth Abortion Act of 1997. This bill would federalize the regulation of abortion, a matter historically left to the discretion of the states.

For this reason, and for this and this bill's history, it would ban a specific procedure, known medically as a dilation and extraction (D & X). I could not support this legislation when it came to the floor of the House of Representatives earlier because of its uncompromising language. This specific late term abortion method even in a case where a pregnancy goes tragically wrong and the woman's health is placed in serious peril.

Recognizing the need for some answers in a debate that has generated more heat than light, we have brought before this House the Partial Birth Abortion Ban Act. It is my fervent hope that the Senate will join me in overriding the President's veto of H.R. 1122, and end this horrible practice forever.

Mr. LEWIS of Kentucky. Madam Speaker, my colleagues and I come to this floor every day to debate a wide range of legislation in anticipation that what we do will indeed help to improve the lives of our fellow citizens and hopefully strengthen this great democracy of ours. While we will always face tremendous social and economic challenges, there is no greater threat to our nation than the disregard we hold for our unborn children. Sadly, our President and many members of this body continue to defend the indefensible practice of partial birth abortion.

Abortion at all stages is indeed a tragedy and has served to cheapen the value of life in this country and throughout the world. As long as this nation condemns the legalized killing of millions of preborn babies, we will continue to struggle with its consequences.

In my home state of Arizona, a court held that the statute that was modeled after H.R. 1122 was unconstitutional because it "likely infringes on the constitutional rights of women . . . the protection of constitutional rights clearly outweighs any interest the state may have in promoting the interests of the fetus with a statute that is unconstitutional." Planned Parenthood v. Miller and Niebyl v. Miller, Civ. No. 4--98--CV--90149, 1998 U.S. Dist. LEXIS 9851 (D.S.D. Iowa, June 26, 1998).

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Ms. PELOSI. Madam Speaker, I rise today in strong opposition to the override of H.R. 1122, the “late term” abortion ban and I ask my colleagues to sustain the President’s veto.

Madam Speaker, this bill has been vetoed twice by the President because it fails to protect a woman’s health and fertility. Once again, conservative Members of this body are encroaching on a very private, personal matter by infringing on a woman’s constitutionally protected right to make a personal decision regarding her personal health.

Mr. Speaker, the issue isn’t about how many women undergo this procedure, but how many women have no other alternative but this procedure to save their life and reproductive health.

This bill challenges the Roe versus Wade decision to protect a woman’s right to choose. It supersedes safeguards in the Constitution which protect a woman’s right to terminate a pregnancy of a viable fetus if an abortion is necessary to protect the life or health of the mother. The law does not say that a state may “regulate, and even prescribe, abortion” except when a woman’s life or health is threatened. Mr. Speaker, the authors of this legislation failed to incorporate the need to protect a mother’s health into this legislation.

The facts are so loose that 18 courts have struck down or severely limited enforcement of the “late term” abortion ban. Respected judges from around the county have rule that the definition in the ban is both vague and overly broad which has resulted in the ban of some of the most safe and common abortion procedures used throughout pregnancy. An undue burden is placed on a woman’s right to choose and on a doctor’s ability to practice safe medicine.

All of these restrictions on abortion will only make abortions more dangerous. Let us protect not only the privacy and personal choice between a woman and her doctor, but also the rights outlined in the Supreme Court’s decision, Roe versus Wade.

Madam Speaker, Congress has no business coming between a woman and her doctor. When making a medical decision, doctors should not be faced with the threat of imprisonment for having to perform a procedure to save a mother’s life or protect her reproductive health. The tragedy behind this unfortunate situation is that most women who undergo this difficult procedure desperately want a successful pregnancy. Listen to the women who have been faced with this tragic situation.

Recently, I learned of a sad story about Kim and Barrett Koster of Iowa who enthusiastically awaited the birth of their son. In addition to Kim being diabetic which makes healing more difficult, the couple was faced with the devastating diagnosis that their son would be born with spina bifida. This is a major reason why this particular woman firmly believes the dilation and extraction method was the only option. Kim and Barrett and their failed pregnancy are a perfect example of the need for access to safe medical procedures.

Madam Speaker, let me refrain from the work of a medical professional and refrain from jeopardizing the lives of mothers. I urge my colleagues to vote to sustain this veto.
APPOINTMENT OF CONFERENCE ON H.R. 4059, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. PACKARD. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment, and agree to the conference report as amended. The SPEAKER pro tempore (Mr. LAHOO) is the Chair. Is there objection to the request of the gentleman from California? The Chair hears none, and without objection appoints the following conference committee: Messrs. PACKARD, PORTER, HOBBON, WICKER, KINGSTON, PARKER, TIJHART, WAMP, LIVINGSTON, HEFNER, OLVER, EDWARDS, CRAMER, DICKS, and OBEY. There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 304 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the further consideration of the bill, H.R. 4193.

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. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes, with Mr. LAUROTTI in the chair. The Clerk read the title of the bill. The CHAIRMAN. The CHAIRMAN. The Chair read the title of the bill. Pursuant to the order of the House of that day, no further amendment to the bill is in order.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings were continued for the purpose of the preceding order: amendment No. 2 offered by the gentleman from Oregon (Mr. DEFAZIO), the amendment offered by the gentleman from Washington (Mr. MCDERMOTT), the amendment offered by the gentleman from New York (Mr. HINCHEN), and the amendment offered by the gentleman from New Jersey (Mr. PAUL). The Chair will reduce the time for 5 minutes the time for any electronic vote after the first vote in this series.
Ms. WOOLSEY, Mr. HILLEARY and Mr. WAXMAN changed their vote from "aye" to "no." Ms. MCKINNEY and Messrs. BARCIA, METCALF, ROTHMAN, and NADLER changed their vote from "no" to "aye." So the amendment was rejected. The result of the vote was announced as above recorded.
Ms. ROY-BAL-ALLARD changed her vote from "no" to "aye." So the result of the vote was announced as above recorded.

AMENDMENT NO. 16 OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MILLER) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. MILLER of California: At the end of the bill, insert after the last section (preceeding the short title) the following new section:

SEC. None of the funds made available in this Act may be used to construct any road in the Tongass National Forest.

The CHAIRMAN. A recorded vote has been demanded.

The vote was taken by electronic device, and there were -- ayes 176, noes 249, not voting 9, as follows:

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**ANSWERED “PRESENT”—1**

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twelve HBCUs that are considered to have the actual need. These buildings will be ranked and receive funding in accordance to Universities (HBCUs). These buildings are part of the rich history of the past and the key to society. The National Park Service has ranked 100 most endangered historic sites. Those HBCUs, in order of rank are:

1. Allen University (SC)
2. Tougaloo College (MS)
3. Knoxville University (TN)
4. Fisk University (TN)
5. Claflin University (SC)
6. Talladega College (AL)
7. Rust College (MS)
8. Stillman College (AL)
9. Concordia College (AL)
10. Miles College (AL)

The preservation and restoration of the historical sites at the campuses of Rust College and Tougaloo College, both located in Mississippi, have been a personal endeavor of mine for many years. These institutions have historically educated African-Americans and other disadvantaged populations of this country as well as produced a large percentage of our nation’s minority doctors, lawyers, educators, and other professionals. HBCUs also address and intervene in issues of violence, hopelessness, poverty, and illiteracy through research, community service and other projects. I, myself, am a graduate of an HBCU, Tougaloo College, which has notably been the site of many significant events in America's history. I have seen first hand the need for safe, sanitary, and appropriate facilities and acknowledge the insufficient endowments for the restoration and maintenance of buildings at HBCUs.

All of the many HBCUs will continue to make valuable and much needed contributions to all of our citizens with the continued investments and support from federal agencies and departments through the passage of this bill. The CHAIRMAN. No further amendments being in order, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LATOURETTE, Chairman of the Committee of the Whole House on the State of the Union, filed his report that the Committee, having had under consideration the bill (H.R. 4193) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 504, he reported the bill, as amended pursuant to that rule, back to the House with further sundry amendments adopted by the Committee of the Whole. The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros. The amendments were agreed to. The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. OBEY

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

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

The Speaker reads as follows:

Mr. OBEY moves to recommit the bill, H.R. 4193, to the Appropriations Committee with instructions to report the same back to the House forthwith with the following amendment: At the end of the bill add the following new section:

SEC. 2. Notwithstanding any other provision of law, none of the funds made available in this Act (and especially no funds for the National Endowment for the Arts) shall be available unless Sidney R. Yates stands for election to the 106th Congress from the 9th District of Illinois.

Mr. REGULA, Mr. Speaker, I reserve a point of order.

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

The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, since the day I came here, Sid Yates represents more than anyone else, has been associated with this bill year after year. I think it is safe to say that, without Sid YATES’ leadership, there would be no funding for the arts and humanities in this bill.

On the environmental front, in dealing with public lands, no one can question that Sid YATES has, indeed, been Mr. Public Interest on those issues. In so many fields, he has set the highest example of what public service is supposed to be all about. He has been fighting for justice. He has been fighting for humanity and decency in the actions that our government takes both at home and abroad. In defense of the individual against both government and corporate power, Sid has had no peer.

He has graced this institution and honored this country with his service here. He has enriched the lives of each and every one of us who have served with him. He is indeed the Gentleman from Illinois.

I want to say to the House the greatest debate that I ever saw in this place never took place in this Chamber. It took place in the full Committee on Appropriations, a debate of titans between Sid YATES and Eddie Boland on the SST many years ago.

I remember Sid opening up that debate with a magnificent attack on the committee position. Eddie Boland responded with an incisive and eloquent defense of the committee position. With each speaker, we knew that the other could not possibly top what had just been said; and, yet, they continued to do so for well over an hour.

At the end of that debate—and this is the only time I have ever seen this in all of the years I have served here—the committee stood and gave each of them a standing ovation. In my view, that is what the gentleman from Illinois deserves right now.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes.
Mr. REGULA. Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMSTRONG), one of our really cherished Members of Congress. He is also one of the most exemplary and one of those with whom I am proudest to serve. We wish you well, Sid.

Mr. REGULA. Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. YATES), one of our really cherished Members of Congress. He is also one of the most exemplary and one of those with whom I am proudest to serve.

Mr. Speaker, I withdraw my point of order.

Mr. OBEY. Mr. Speaker, I most reluctantly withdraw my motion to recommit. The SPEAKER pro tempore. The question is on passage of the bill.

Mr. Speaker, I thank the gentleman from Illinois (Mr. YATES) for yielding to me. I appreciate his kind, thoughtful words, and I yield to the gentleman from Texas (Mr. ARMSTRONG).
GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on further consideration of the bill H.R. 4194, and that I be permitted to include tables, charts and other extraneous material.

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

There was no objection.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LaHood). Pursuant to House Resolution 501 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. 4194.

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. 4194), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for other independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, with Mr. Combest in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, July 17, 1998, the bill was open for amendment from page 52, line 3, to page 65, line 16.

Are there further amendments to this portion of the bill?

AMENDMENT OFFERED BY MR. OBEY

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

The Clerk read as follows:

Amendment offered by Mr. OBEY:

On page 59, before the period on line 12, insert:

"Provided further, That any limitation on funds for the Environmental Protection Agency or the Council on Environmental Quality in this Act shall not apply to conducting educational outreach or informational seminars." 

Mr. OBEY. Mr. Chairman, what this amendment does is to supersede language in the report on page 59 which states that the Environmental Protection Agency and the Council on Environmental Quality are thus directed to refrain from conducting educational outreach for informational seminars on policies underlying the Kyoto Protocol until or unless the protocol is ratified by the Senate. This amendment would allow such educational outreach and informational seminars to proceed.

I think most people would agree that there is considerable difference of opinion concerning the Kyoto Protocol and global warming and climate change. I think most would also agree that the only possible way to reach an understanding or potential compromise on such an emotionally charged issue is if there is a full and free exchange of information.

Having said that, though, there is truth in the statement in the committee report that there can be a fine line between education and advocacy on an issue. Assuming adoption of the amendment, I would encourage the EPA and the CEQ to pay close attention to the line between education and advocacy and stay on the right side of that line.

Now, as to what the amendment does not do, it does not change any of the statutory language in the bill regarding Kyoto. The limitation on page 58 of the bill still prohibits the use of funds to develop, propose or issue rules or regulations or decrees or orders for the purpose of or in contemplation of the implementation of the Kyoto Protocol. I am not fully satisfied with that language because I think it in fact may block some activities that it should not block, but I recognize that as a result of that imposition of rules or regulations or decrees until and unless the Kyoto Protocol is actually ratified.

Regardless of the outcome of the Kyoto Protocol, we all need to know much more about the issues of potential global warming and climate change. In order to have an informed public policy debate, the Congress should be encouraging, rather than stifling, education and outreach and informational dissemination activities.

This amendment does exactly that. It takes no position on the merits of Kyoto; it just allows for the education and outreach and in-formation. This is especially true when the EPA conducts educational outreach on climate change. I want to caution my colleagues. There is a very fine line between education and advocacy. The taxpayers should educate using balanced information. Whether or not the gentleman from Wisconsin (Mr. OBEY). I appreciate very much how much he has put into the efforts to come to an agreement on this issue. I am concerned that by trying to interpret his language. Whether or not the gentleman’s amendment is approved today, I look forward to working with him and others to find common ground and clarify the intent of the language.

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

Mr. Chairman, I reluctantly rise to oppose the amendment of the gentleman from Wisconsin (Mr. OBEY). I appreciate very much how much he has put into the efforts to come to an agreement on this issue. I am concerned that by trying to interpret his language. Whether or not the gentleman’s amendment is approved today, I look forward to working with him and others to find common ground and clarify the intent of the language.

The Member from Wisconsin is bringing up the issue of preserving an open debate on environmental issues. Although he and I may disagree on how we get there, we both agree on the policy of an open and public debate. My only concern is that the gentleman would implement the Kyoto Protocol until we implement ratification specifically was to ensure that we do have the debate, that we do have the debate, as the U.S. Constitution requires, in the U.S. Senate with its advice and consent.

Since coming to Congress I have supported an open and public debate concerning environmental issues, including the issue of climate change, clean air, clean water, Superfund, air and environmental justice, and other important environmental issues. I will continue to work to make sure the EPA does not implement environmental policies through the back door, through regulatory tactics, especially when it does not have the legal authority to proceed forward.

There have been some who have claimed the language in this bill concerning the Kyoto Protocol would stifle the debate on climate change. As far as my personal goals on this issue, nothing could be further from the truth. I have been working to ensure that the Kyoto Protocol is not implemented until Senate ratification, as required by the U.S. Constitution. This principle is the open debate issue so richly deserves.

Let us be clear. The language included in this bill does not do anything to interfere with valuable research, existing programs, or ongoing initiatives designed to carry out the United States’ voluntary commitments under the 1992 Climate Change Convention.

And, education is another function conducted by the EPA. However, it should educate using balanced information without advocacy. The taxpayers deserve a balanced presentation of information. This is especially true when the EPA conducts educational outreach on climate change. I want to caution my colleagues. There is a very fine line between education and advocacy.

The EPA should never use taxpayer dollars to advocate their own agenda when it is not the official policy of the United States of America.

The EPA must be allowed to serve its primary purpose: To ensure that we have a clean, safe and healthy environment. We may have differing views on how to accomplish this goal, but we must be able to air those differences in the light of day. I will continue to work with my colleagues and fight for open debate on these important issues. I would challenge the EPA to join me in accomplishing this rather modest goal.

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

Mr. Chairman, I rise in opposition to the Obey amendment and in support of the language that has been put in this bill by the gentleman from Michigan (Mr. KNOLLENBERG). This entire effort is designed to protect the rights of the American people against an anti-American effort resulting from the Kyoto Treaty that has been proposed before the United States Senate. Thank goodness that the American people have risen up and said we do not want this treaty to be passed and the Senate has actually listened to the American people.
It is anti-American because it imposes a lot of strict, costly penalties on Americans, while allowing many countries, many Third World countries to continue to pollute our environment at will. Frankly, I am mind-boggled as to how the administration could look at this as a positive thing for our people, and then after the people have said no, we do not want this to be implemented because it will cost us money and jobs, to then try to implement this through the back door, trying to go through the EPA to implement some of the rules and regulations, even though we do not want them.

This is a classic maneuver that the administration has used in recent years, and when the Congress and the people say no to something, they find agencies that are currently in existence to try to implement rules and regulations and circumvent the will of the United States Congress and the American people.

So I commend my colleague from Michigan (Mr. KOLLENBERG) for inserting this language to prohibit this back-door effort at costing the American people money and jobs to implement this anti-American treaty.

Mr. Chairman, over the last several months, I have participated in more than 20 hours of discussion during five hearings on the global warming issue. I am aware of the impact that the Kyoto Protocol may have on this country, but I am also aware of the possible consequences of global climate change.

When we look at this weather map from CNN of July 20, 1998, we can start to see the dimensions of the problem where we have had some of the most unusual weather in this country that people have experienced ever.

All across this country, people are aware as they are sweating at home how different the weather is this year than any other year. And as scientists have looked at it, they have seen that indeed this weather has been unusually severe this summer.

We have had fires in Florida, floods in the Midwest, tornadoes destroying entire communities. And we look back at the temperature, last Wednesday the high temperature was 117 degrees in Phoenix. Today marks the 17th day in a row the temperatures are over 100 in Dallas.

Does anyone remember last winter? Not even a snowflake fell here in Washington. From January to June, average temperatures were the warmest on record. Temperatures in 1997 were the highest on record, and in 1998, so far it is even warmer.

Scientists predict that even more severe storms and unusual weather patterns will occur if we continue to pour greenhouse gases into the atmosphere, and we are no doubt seeing evidence of this right now.


When we look at just the news, what we have is evidence of rapid breaking warming trends. The 1990s have been the warmest years, according to scientists. It is not a political statement. The 1990s have been the warmest years in six centuries. 1997 is the warmest year ever recorded. This J une, or this past J une has been the hottest J une since record keeping began over a century ago. July is on track to beat these records.

This is a statement from the National Oceanic and Atmospheric Administration. These are not politicians debating issues. These are scientists who have experience records that cannot be contested.

But for the moment let us set all of that aside. The American people know that the climate is changing. The American people can tell us that it is changing in all parts of this country; that the weather has been crazier in some parts of this country. People know this. And yet there are those who would not let the government of the United States even study why this is happening in relationship to global warming.

Language in the VA-HUD bill does not allow contemplation of implementation of the Kyoto Treaty. It does not allow the relevant agencies to prepare to implement regulations. Basic public education on the science and implications of climate change would be prohibited under the language of this bill. This language puts a gag order on the relevant agencies and stifles informed debate on global warming, which is why the amendment offered by the gentleman from Wisconsin (Mr. OBEY) is relevant.

This practice of not letting the public know the debate, this surely is not the way, this cannot be the way to address these issues. We have to prepare for all possible eventualities in order to protect the planet for future generations. We cannot be here in this Congress just for ourselves. We have to remember the next generation, and the next generation, and the next generation. It is very clear that global warming is a fact of life and it is hurting this country and the world.

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

Mr. Chairman, I agree, as the gentleman from Wisconsin (Mr. OBEY) has already said, that no rules, no regulations that relate directly to the implementation of the Kyoto Protocols should be done in any direct way prior to the ratification of that treaty. But all his amendment does is make certain that all activities that are presently authorized by law in various other places will not be prohibited on the basis of their having some implication for or some imagined implication for the Kyoto Protocols at some time.

Climate change and global warming are events that we do not much about recently. We know that there has been an enormous change in the ozone layer, a huge gap in the ozone layer that has left the whole continent of Australia in a position where they have to move heavy ray clothing or at least they are advised to do so, because there is not that protection against radiation that has been with this planet for all of human existence.

Mr. Chairman, we also know, as the gentleman from Ohio (Mr. UCINICH) pointed out, that some of the hottest summers in the last six centuries have occurred. My figure might be slightly different, but I think at least six of the 10 hottest years in this century have been within this last decade. This is a trend that is going on as we speak.

National Geographic Magazine, in its last edition, had an article about extensive research by glaciologists in Antarctica. We now looked through the record of previous ice ages and seen that the whole west Antarctic ice shelf is in danger of collapsing, which could end up in a very short period of time, in a matter of months, in a matter of years, in a matter of decades. If the water table in this world, the water level in this world by feet. Not just inches, but feet.

So I think that the Obey amendment gives us the best chance. We cannot be in this position of only operating on the basis of what will get us through the next election. We have to think that even though our final exams in this body come every 2 years, we have got to think in terms of what is going to be happening 10 years and 30 years down the road.

The Kyoto Protocols, from my point of view, clearly have flaws in them. They are too weak in many ways. They do not make certain that economic growth in emerging economies in the Third World is done with careful attention to how that energy is being used. Were we to use energy in just one more nation, the Nation of China, at the current rate per capita, the world are using, in the same way that our great economy uses energy, if we do not make the changes that will allow us to use energy much more efficiently, to produce much less in the way of greenhouse gases, if China produces and use energy in the same manner per capita as we do, we would have no chance, no chance whatsoever of turning this global warming around and getting control of it and stopping the rate at which human activity has affected the normal climate changes that this planet has gone through over a long period of time.
So, I would hope very much that the amendment offered by the gentleman from Wisconsin (Mr. Obey) would be adopted so that we make certain that we do not, in our "know-nothingism" here, that we do not end up refusing to take the necessary actions, to add whatever research, to do those activities already allowed by law so that we can use energy in a much more efficient manner. I do not believe the Kyoto Protocols are anti-American in any way whatsoever. They may be flawed but they are certainly not anti-American. They are pro-planet.

I hope the Obey amendment will be adopted.

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

Mr. Chairman, I just want to respond a little bit about the issue of whether or not this is, in fact, the warmest June prior to the accord. According to Dr. John Christy of the Earth System Science Laboratory at the University of Alabama in Huntsville, who raised questions after hearing reports by the Associated Press and the National Public Radio, Dr. Christy researched the local records just, for example, at the Alabama State University climatology office and found that there were 6 years, 1914, 1921, 1936, 1943, 1952 and 1953, with warmer Junes than 1998, all of which were in many previous decades prior to this.

He also went on to tell us that the National Weather Service in Birmingham, Alabama, admitted that its data only went back to the year 1968. So consequently, it is real hard to understand how the National Weather Service could possibly be speculating that this would be, in fact, the hottest June when its measures did not go back prior to that.

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

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

Mr. Dingell. Mr. Chairman, it is interesting to note that we are discussing global warming. The Obey amendment addresses an important question, and that is whether or not EPA should be lobbying and should be pushing a treaty that has not been ratified by the United States Senate. I think that to allow EPA to do certain intelligence informational services that do not violate the particular treaty affects everybody and that the United States is not going to be the only nation in the world which is compelled to cut back as much as 30 percent on our use of energy, to sign a treaty which is going to bind nobody else the same way it binds us.

The Europeans say, well, we are going to bound and the British are going to get out in some neat devices because they have gone to North Sea natural gas. The Germans are going to point out that the treaty will not have to comply very much because they have the fine situation where they have taken over and closed a bunch of old, inefficient fuel systems.

The Soviet Union says, we will not be bound. Most of the former Soviet bloc countries say we will not be bound and we will not sign. Nobody in Africa and the developing countries will be signing, and they will not be bound.

It is interesting to note that India, which is a signatory of the Montreal Treaty of CO2, is not going to be bound.

It is also interesting to note that our friends in China have told me, in a discussion I had with our delegates, that they will never be bound; they are always going to be a developing country. So that leaves Uncle Sap, the United States, which proposes to be bound by a treaty which is going to cause enormous economic hardship.

This is not going to be ratified by the Senate. We can just bet our bottom dollar on that particular point.

Mr. Obey. Frankly, there is, in the human situation, always a lot of leeway. The Congress does not have the ability to serve as a nanny in dealing with every agency of government who might get out of hand to do something illegitimate.

The language of this amendment is pretty clear. The agency is expected to provide educational activities versus advocacy activities, and the agency engages in an activity which goes beyond the line of the objective of providing information, I would think not be able to move forward to implement a treaty that the Senate of the United States is not going to ratify, because 95-to-0 they found it not in the interest of the people of the United States or the economic and other welfare of the people of this country.

I want to ask the gentleman, if he would be so kind, how much leeway is there in the concept of educational activities versus activities that would be advocacy?

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

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

Mr. Obey. Frankly, there is, in the human situation, always a lot of leeway. The Congress does not have the ability to serve as a nanny in dealing with every agency of government who might get out of hand to do something illegitimate.
that people on the side of the issue who think they have been skewered by it would bring it to the attention of the Congress, and I would think the Congress would react accordingly. I am not in the business of censorship, and I cannot be in the business of defining time whether some idiot in some agency is going to do something which they are not supposed to do under the law. All I can say is that the language is quite clear. My comments in explaining the amendment to the gentleman from Indiana (Mr. Obey) did not go across the line into advocacy, it does so at its peril.

Mr. McIntosh. Reclaiming my time, I hope the gentleman would agree with me, if it were an educational program such as the one in Indianapolis, where all of the speakers were advocates for the treaty, that that would cross the line and now we are establishing a standard that says they have to at least have some balance.

Mr. Obey. If the gentleman will continue to yield, I do not want to comment precisely on whether I was in attendance or not, but I do not know whether the gentleman’s characterization of that meeting in Indianapolis is accurate or not. I assume it is, but I do not know that to be the case. And so I simply am reluctant to provide an adjective describing anything that I do not know anything about.

Mr. McIntosh. Mr. Chairman, I appreciate the gentleman’s comments, and reclaiming my time, the concern that I have, and it is with reluctance, because I think the Obey amendment has drawn an appropriate line; where educational activities would be okay, advocacy is not, rulemaking is not; and all of the other activities that are prohibited in the Knollenberg amendment would be prohibited.

But I am worried that Vice President Gore has sent a signal to the agencies that regardless of whether Kyoto is implemented or not, he and the President expect them to move forward in addressing this problem. And I think we have to consider that, and we have with the Knollenberg amendment, by saying, no, they cannot use taxpayer funds to advocate for the adoption of Kyoto; they cannot use taxpayer funds to regulate, to implement Kyoto.

So I guess I am very strongly in support of the Knollenberg language. I appreciate the work that the gentleman from Wisconsin has done to try to clarify that mere educational activities would be okay, defining ahead of time whether some of our current programs that promote policy, decrees, orders for the purposes of implementing Kyoto, for example, are not prohibited.

Mr. Obey. Mr. Chairman, if the gentleman will yield once again, I would simply note that nothing in this amendment would change the underlying issue. It prohibits Federal agencies from lobbying for or against legislation pending before Congress, and I assume that applies to indirect as well as direct lobbying.

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

Mr. Chairman, I have been having this discussion with the gentleman from Indiana (Mr. McIntosh) in committee. I think it is time, and I rise in support of the Obey amendment. During the past 4 months, in the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs of the Committee on Government Oversight, we have had at least five hearings. And what some have deemed to be the Clinton administration’s back door of implementation of the Kyoto Protocol, we have been exposed and seen all kinds of frightening figures and numbers and portraits of devastating scenarios played out by a wide variety of witnesses on the possible effect the protocol would have on our economy and our jobs.

Let me assure this body, as we have assured the gentleman from Indiana and his committee, we have no intention of trying to implement the Kyoto Protocols before they have been thoroughly researched, thoroughly explained and thoroughly voted in the Senate. And the gentleman from Wisconsin (Mr. Obey) makes this clear. But it is not sensible to prohibit the government agencies, that should be doing research, that should be educating themselves and the public, from doing one of our country’s most effective describing anything that I do not know anything about.

Mr. McIntosh. Mr. Chairman, I appreciate the gentleman’s comments, and reclaiming my time, the concern that I have, and it is with reluctance, because I think the Obey amendment has drawn an appropriate line; where educational activities would be okay, advocacy is not, rulemaking is not; and all of the other activities that are prohibited in the Knollenberg amendment would be prohibited.

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Mr. Obey. Mr. Chairman, if the gentleman will yield once again, I would simply note that nothing in this amendment would change the underlying issue. It prohibits Federal agencies from lobbying for or against legislation pending before Congress, and I assume that applies to indirect as well as direct lobbying.
Mr. LEWIS of California. I appreciate my colleague yielding, Mr. Chairman, and I asked for the yield simply because I agree very much with the gentleman’s statement. I was inclined to accept this amendment in the initial stages, but because some of our colleagues are concerned about what the language actually means, there is reservation.

Nonetheless, I do intend to vote for this amendment and I would urge my colleagues to support it.

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

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

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

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

Mr. Chairman, let me be very frank about this issue. I happen to believe that there is a severe problem with global warming, and although I am no scientist, I think that there is a significant problem. I do not know what the correct measures are to deal with that problem.

I think that the most serious environmental problem we face in the long term is probably climate change due to greenhouse gases, and if that trend is sustained, there is no question that our conifer forests, within a few generations, will no longer be in this country. They are, strictly speaking, in Canada, and there is no question that if the trend continues the grain belt of today will turn into the dust belt of tomorrow.

The Kyoto conference was meant to try to discuss what the world ought to do about that. In my mind, the product that came out of Kyoto was flawed. And because it does not deal with what came out of Kyoto was flawed. And because it does not deal with greenhouse gases, and if that trend is sustained, there is no question that our conifer forests, within a few generations, will no longer be in this country. They are, strictly speaking, in Canada, and there is no question that the trend continues the grain belt of today will turn into the dust belt of tomorrow.

The Kyoto conference was meant to try to discuss what the world ought to do about that. In my mind, the product that came out of Kyoto was flawed. And because it does not deal with what China and other major Third World polluters contribute to the problem, I have to say that that protocol will not be ratified until it is changed.

That does not mean that we do not have an obligation to avoid extreme actions in the meantime.

I think when it comes to gagging the ability of the agency to even conduct educational seminars to provide not advocacy but explanation of the underlying issues, I think that is not only a right of the agency, I think they would be negligent if they did not. And I think that a Congress that did not allow them to do so would be in craven supplication to special interests in this country. So that is why I offered this amendment.

Mr. BROWN of California. Mr. Chairman, I rise in support of the Obey amendment and I urge my colleagues to support it.

Mr. LEWIS of California. Mr. Chairman, I want to make a small contribution.

Mr. OBEY. Mr. Chairman, reclaiming my time, I support the Obey amendment and I urge my colleagues to support it.

Mr. BROWN of California. Mr. Chairman, I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate my colleague yielding.

I think he heard my comments earlier that the chair is going to support this amendment. But I must say that I do have some understanding of the reservations by some on both sides of the aisle, I assume because this is an agency that has a tendency to have a preestablished notion as to the way the world works and as a result they go about trying to make sure that everything they obviously would like to do so.

Nobody can exactly predict the effects of global warming. It may be that the wheat belt will move to Canada, and the Canadians will be tremendously benefited. It may be that the wheat production of central Asia, for example, and the former Russian Republic of Georgia, will move to Siberia. The Georgians may not want to move to Siberia, but the wheat production might remain the same. This is a very delicate and difficult problem to analyze, and I do not like to see us trying to do that on the floor of the House, because we pretend we are pro-science.

What I do want to see us do is to better understand this problem, and take prudent steps to do whatever we can reasonably do to solve the problem. The prudent thing that we reasonably take is to be more efficient in our use of energy. It makes our industry more competitive and more productive when we do that. It also slightly decreases the chance of global warming, the impact of global warming. If it is due to the inefficiencies of our industrial system. Generally speaking, the large production of CO-2 reflects inefficiency in the industrial system. So there are prudent things that we ought to do.

Now, I feel that we should not be trying to implement the Kyoto Protocols if we have not signed them. I agree with what has been said on both sides with regard to such implementation. I think it would be highly imprudent to so curtail the agencies of the Government that they could not inform the public as to the factual matters within their jurisdiction. If we move in that direction, we will get to the point where we will say do not do any more research on global warming, do not try to understand what is actually happening, even though, as I say, we have been doing such research for the last 20 years.

Mr. BROWN of California. I yield to the gentleman from California.

Mr. OBEY. Mr. Chairman, I appreciate my colleague yielding.

I think he heard my comments earlier that the chair is going to support this amendment. But I must say that I do have some understanding of the reservations by some on both sides of the aisle, I assume because this is an agency that has a tendency to have a preestablished notion as to the way the world works and as a result they go about trying to make sure that everybody understands they are right. And that is not exactly the way science works. So that is the reservation.
Mr. BROWN of California. Mr. Chairman, I presume that the gentleman from California (Mr. Lewis) is trying to hint to me so that I should not beat this subject to death so we can move on with his bill. But I am very deeply concerned, then we progress in terms of understanding, if we do not always in terms of legislation.

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

Mr. Chairman, I think that Vice President Gore has demonstrated significant and important leadership on this topic that has far-reaching consequences for our generation, for future generations, for us not just as Americans but as citizens of this one planet. As I have listened to some of this debate, I have become convinced that perhaps this very debate and some of the comments that have been made during it make the strongest case for the Obey amendment that we really do need some flexibility, and I would hope that it allows for more than just more talking on this subject. We do need to begin to start looking at some solutions to this problem, not just to talk about how severe the problem is but to actually begin to do something about it.

Where I come from down in Texas, it is at right sizzling in the shade. We got our typical Texas August about the beginning of May this year, and it has stayed that way. Many regions in our State have had triple-digit temperatures now for almost 3 weeks in a row. Eighty people have already died from the heat just in the State of Texas, and we have a lot of other folks down there that are concerned that our fields will burn, they are already burning; that our cedar breaks will catch fire, just like the ones over in Florida. And I believe, also, that more than most other parts of the country the severe impact of looking at the sky at noon and not being unable to see the sun or anything else because of all the smoke that has filtered up as the rain forests of Mexico have burnt. And many, many other countries have burnt in some of the driest conditions that that area has ever faced.

Meanwhile, the scientific data is mounting that at least a significant contributing factor is changing climatic conditions or global warming, and therefore the planet is getting hotter by the year.

What a very strange time for this Congress, as these conditions exist, to be enacting what would essentially be the “Mandatory Ignorance of Global Warming Act of 1998.” The language, as originally proposed, seemed to tell the folks that are involved in environmental protection for this country, “do not even think about global warming,” a little like those parking signs we see “do not even think about parking here.”

Well, the subject seems to be, do not even think about global warming or anything we can do about it. It goes far beyond the language necessary to have the very legitimate debate over the precise effect and cause of global warming that the gentleman from California just referred to. Rather, the approach of this language, as originally proposed here on the floor of the Congress, seems more consistent with redesignating our national bird from the eagle to the ostrich. Because they really are proposing to bury our heads in the sand, as it were, the mounting for a rise in temperature, instead of trying to look at solutions to this problem. I have been interested to hear people suggest that we need to focus only on America and complain about these other countries that are not participating. Unfortunately, some of the same people who have tried to obstruct in every way how this country deals with the global warming challenge went over to China and to other countries that run our environmental policies, and urged them not to participate on this entire problem.

So it is a little bit of a conflict that they say they want to deal with this whole global warming issue in a constructive way that everyone ought to be able to agree to, and indeed every country should be a part of the solution, and yet at the same time they were trying to twist arms and influence opinion makers abroad to keep them out of a global solution with reference to this whole matter.

I do not believe that we have to wait until the glaciers melt or until the fields and the forests are burnt or until more and more people have skin cancer to begin to study and look for solutions to deal with this global warming challenge. There are many responsible corporations who feel that way, too. And without Government involvement to any significant extent, they are already out there working to try to find a way to reduce greenhouse gases.

I believe we should provide them incentives, that we ought to encourage them to bring this challenge, that recognizes that while we have 4 percent of the world’s people, we are producing 25 percent of the greenhouse gases, and we should provide them with incentives to bring this challenge, that recognizes that while we have 4 percent of the world’s people, we are producing 25 percent of the greenhouse gases. I believe we have some responsibility not just to be a world follower but to be a world leader. To be a world leader, we, at a minimum, need to continue to focus on educating our own people, on educating the world about the challenge and not following the path of “know-nothing-ism” that was originally proposed in this bill.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DOGGETT) has expired.

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

Mr. OBEY. Mr. Chairman, will the gentleman yield? Mr. DOGGETT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would ask the gentleman, does he think we might get more votes for this amendment if we move this debate from the air-conditioned Chamber today to the steps of the Capitol?

Mr. DOGGETT. Reclaiming my time, well, we finally in the last couple of days have here in Washington the kind of weather that we have been having out in Texas and much of this country back in May, the kind that leaves people sweating. And while we cannot say every bit of that is the result of global warming, we do not have to wait for Alaska to have the kind of weather that we are having out here on the lawn at the Capitol today or the kind that has disturbed the people of the South for the last several months before we begin to address this problem.

So I am pleased that my colleague, at least through this amendment, will allow a little education perhaps to the Members of this body and certainly the American people about the gravity of this problem. But I would hope that eventually, perhaps as we work through the process on this bill, that some of the other restrictions that have been placed in this particular appropriations act bill would also be altered, because we need the greatest flexibility to look at this problem and provide the leadership to resolve it.

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

The amendment before us is one that everyone ought to support. It is common sense. The gentleman from Wisconsin (Mr. OBEY) is saying that, whatever limitations we place on the Environmental Protection Agency or the Council for Environmental Quality, we should not say to them they cannot conduct educational outreach or informational seminars.

Can my colleagues imagine, in the face of a global warming potential of what we would lose if our agencies that run our environmental policies, cannot hold informational seminars, they cannot have educational outreach? That is absurd. That is absolutely absurd to have that kind of restriction. Yet that restriction is in the bill that is before us. And the gentleman from Wisconsin (Mr. OBEY) is trying to reach that part of the bill.

But the bill before us is even more extreme than just that, because the bill before us would stop the Environmental Protection Agency and the CEQ from looking at how to deal with the problem or developing some proposals.
The question was taken, and the Chairman announced that the ayes appeared to have it.
Mr. CLAY. Mr. Chairman, let me first of all thank the gentleman from California (Mr. Lewis) for providing this opportunity to pay tribute to our colleague, as he is. He has contributed in a most meaningful way to enhance the image and importance of this institution. Those contributions have been exceptional, singular, uncommon, as has been related by the ranking member of this committee. Stokes has been the author of numerous education programs, including the TRIO program.

Mr. Chairman, in conclusion, let me say that the term ‘power’ is frequently loosely and unjustly used in reference to its real significance. Seldom do the objects of the expression bother to contemplate that all sources of power are limited inasmuch as they are to some degree dependent on other sources of power. But for Lou Stokes, some sources are more real, more independent, and more indispensable than others. He has often said that the two most devastating kinds of power are economic and political, asserting that if you have one, you are respected, if you have both, you are feared, but if you have neither, you are exploited.

Stokes comprehends the theory of power and its imposing function. He has successfully exercised his power on the House Committee on Appropriations to achieve a degree of equitable balance between the have’s and the have not’s, and I am proud to say that I am counted among his friends. Perhaps the best and most succinct summary of who and what Lou Stokes is about can be found in a statement celebrating his 30-year milestone in the United States Congress. This 20-year milestone in the United States Congress gives us pause to reflect on Lou Stokes, the man, a legend in the making, as he continues to make his mark in history. He improves the quality of our lives by example and effort.

Mr. Chairman, I want to acknowledge the friendship between Mr. Stokes and his wife Jay and my wife Carol that has been enriched because of the friendship of Martin Luther King and Robert Kennedy; he served as chair of the Committee on Intelligence, he served on the Iran Contra Committee, he served as chair of the Appropriations Committee, after the assassinations of Martin Luther King and Robert Kennedy; he served as chairman of the Assassinations Committee, after the assassinations of Martin Luther King and Robert Kennedy; he served as chair of the Committee on Intelligence, he served on the Iran Contra Committee, he served as chair of this committee, and I think his most valuable service has come on a subcommittee on which he has never been chair, and that is the Subcommittee on Labor, Health, and Education. It is there that I think the gentleman did the most to demonstrate dedication and produces service that, indeed, is worthy to be remembered.

Lou Stokes has many achievements. He served as chairman of the Committee on Standards of Official Conduct, he served as chairman of the Assassinations Committee, after the assassinations of Martin Luther King and Robert Kennedy; he served as chair of the Committee on Intelligence, he served on the Iran Contra Committee, he served as chair of this committee, and I think his most valuable service has come on a subcommittee on which he has never been chair, and that is the Subcommittee on Labor, Health, and Education. It is there that I think the gentleman did the most to demonstrate dedication and produces service that, indeed, is worthy to be remembered.

Lou Stokes clearly exemplifies everything that is good about the Congress of the United States and, indeed, everything that is great about this wonderful country in which we live. From his early days growing up in public housing through his days of college and law school to his work as an attorney on some of the most important legal issues of our time to his service in the Congress which began in January of 1969, Lou has served with courage, with honor, with dignity, and with compassion.

He has represented his district with the finest tradition of service. I must say that I have never forgotten his humble beginnings, unlike many other people that we often see in this society.

I referred to my good friend Archie the Cockroach once earlier today, and I would simply refer to him again. There is a piece in this book that I think sums up Lou Stokes’ service to this House. It says:

The lordly ones, the haughty ones, with supercilious heads held high;
The up stage stiff pretentious ones, miss much that means our humble eye;
Not that I mean to pry, but I’m too small to feel great pride;
And as the pompous world goes by, I see things from the under side.

I think Lou’s entire career here demonstrates he has not forgotten that. He understands there are millions of people in this country who are stuck with seeing life from the other side, and in a city of 1,200 suits, Lou has never forgotten the people who wear work clothes.

I think that he has also demonstrated an interest far beyond just the interest of the poor. In a me-first era, he has remembered the answer to the question of Cain: “Am I my brother’s keeper?” This is very often the best and most succinct summary of who and what Lou Stokes is about. It can be found in a statement appearing in a Cleveland newspaper 10 years ago when Mr. Stokes was celebrating his 20 years in Congress. That article stated, “This 20-year milestone in the United States Congress gives us pause to reflect on Lou Stokes, the man, a legend in the making, as he continues to make his mark in history. He improves the quality of our lives by example and effort.”

Mr. Chairman, I want to acknowledge the friendship between Mr. Stokes and his wife Jay and my wife Carol that goes back 30 years. We came to this subcommittee one day 30 years ago, along with Shirley Chisholm, and the three of us, who joined with six other African American Members, really made history that day, because that made nine of us in the Congress, and that was the most black Members of Congress that had served together at one time in history.

Stokes said to me shortly after that that because this was historic, that perhaps we ought to band together to really make a difference. As a result of that conversation, we started talking with others of the nine, we formed the Congressional Black Caucus. And in this 30-year period, that caucus has made a difference. But Lou Stokes has definitely made a difference, and, as a result of that difference, all of us are proud today and all of us are better off. Stokes has made a big difference. He has put his staff, his imprimatur, on legislation that has affected and affects the lives in dramatic ways to millions of citizens that have been benefited by that legislation.

Stokes’ 30-year career in Congress is the most compelling evidence, Mr. Speaker, available of why we should not have term limits. Only a few, in fact, only 120 Members of this body in 200 years, have served 30 years or better. So Stokes is in a distinct, unique class of people. In the 150-year history of this Congress, only 10,000 Members have served in this body. So it is an honor for him to be in that elite group of 115 distinguished individuals.

I do not think that anybody ought to limit the number of years that a person can serve here if his constituents want that person to represent them.

Mr. Stokes, as I said earlier, has become the example and model. He has contributed in a most meaningful way to enhance the image and importance of this institution. Those contributions have been exceptional, singular, uncommon, as has been related by the ranking member of this committee. Stokes has been the author of numerous education programs, including the TRIO program.

Mr. Chairman, in conclusion, let me say that the term ‘power’ is frequently loosely and unjustly used in reference to its real significance. Seldom do the objects of the expression bother to contemplate that all sources of power are limited inasmuch as they are to some degree dependent on other sources of power. But for Lou Stokes, some sources are more real, more independent, and more indispensable than others. He has often said that the two most devastating kinds of power are economic and political, asserting that if you have one, you are respected, if you have both, you are feared, but if you have neither, you are exploited.

Stokes comprehends the theory of power and its imposing function. He has successfully exercised his power on the House Committee on Appropriations to achieve a degree of equitable balance between the have’s and the have not’s, and I am proud to say that I am counted among his friends. Perhaps the best and most succinct summary of who and what Lou Stokes is about can be found in a statement celebrating his two decades in elective office. It stated:

This twenty-year milestone in the United States Congress gives us pause to reflect on Lou Stokes, the man, a legend in the making. As he continues to make his mark in history, he improves the quality of our lives by example and effort.

The one person who has stood next to the Congressman in this noble endeavor, for considerably more than this 30-year stretch, is his lovely charming and understanding wife, Jay Stokes. She has been the pillar of strength behind his uncharted excursion into the field of...
This policy-making body has been effective in fostering health care delivery for minorities and under-served populations; enhanced education and outreach activities; and increased minority representation in the health professions, including biomedical education and research.

STOKES Broke Group in the Legal Field Before Congress

In overcoming his impoverished beginnings, STOKES went on to excel in the Congress and in the legal field. He is held in high esteem by his associates in both professions. Before election to Congress, he was a celebrated practicing attorney in Cleveland, once arguing before the Supreme Court the landmark "stop and frisk" case Terry vs. Ohio, which is taught in every law school in the country.

STOKES and the Use of Power

The term "power" is frequently used loosely and without knowledge of its real significance. Seldom do users of the expression bother to contemplate that all sources of power are limited inasmuch as they are to some degree dependent upon sources of power. But for LOU STOKES, some sources are more real, more independent, and more indispensable than others. He has often said that the two most devastating kinds of power are economic and political, asserting that "if you have one, you are respected; if you have both, you are feared; but, if you have neither, you are ex- ploited."

STOKES Comprehends the Theory of Power and Its Imposing Function. He has successfully exercised his power on the House Appropriations Committee to achieve a degree of equitable balance between the "haves" and the "have-nots".

STOKES' Contribution to Education

While STOKES has vigorously pursued an agenda that respects and appreciates the real needs of the nation, he has not ignored the critical problems hampering the growth and prosperity of the black community. He has implemented new ideas and promoted a new direction in the areas of legislation dealing with the education of the African-American population.

STOKES has used his position on the Appropriations Committee to increase funding for Head Start, Safe and Drug Free Schools, Teacher Training and Vocational Education. Recognizing the critical need to prepare students for a highly technological world, he secured federal funds to support and strengthen math and science programs.

STOKES' Support for Black Colleges and Universities

STOKES has manifested critical leadership in prodding the House Appropriations Committee to expand its funding for Historically Black Colleges and Universities (HBCUs). Through his role as a seasoned member of the committee, he has used his authority with decisiveness in protecting federal funding for the enhancement of health care delivery for minorities and under-served populations; enhanced education and outreach activities; and increased minority representation in the health professions, including biomedical education and research.

STOKES has been instrumental in promoting community health interests, increasing minority manpower in health care professions, and providing federal funds for the enhancement of programs at medical schools.

STOKES Recognition for Leadership

Congressional leadership has bestowed upon STOKES some accolades, having named him to prominent and prestigious positions of heady responsibility. He was appointed by Speaker Thomas P. "Tip" O'Neill on March 8, 1977 to chair the committee investigating the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr.

Speaker "Tip" O'Neill also named him to chair the House Committee on Standards of Official Conduct (Ethics Committee). And in February 1983, STOKES named by Speaker Jim Wright to chair the Select Committee on Intelligence.

STOKES' Vision in Forming CBC

The founding of the Congressional Black Caucus is demonstrative of the vision shown by STOKES almost immediately upon his arrival to Congress. He wasted no time seeking to establish a forum for articulating the concerns of Black Americans. He, along with several others, decided that because of the nearly equal ideological division in the House between liberal and conservatives—Democrats and Northern Republicans allied against Conservative Republicans and Southern Democrats—the nine black members of the House of Representatives comprised a voting block sufficient to constitute the balance of power. Members of the CBC were determined to seize the moment, to confront racial injustice, to fight for economic equity and to raise other issues long ignored and too little debated. STOKES gave extraordinary leadership in the formative days of the movement and was elected the second chairman of the Caucus in 1972.

STOKES CHAIRED HEARINGS ON THE ASSASSINATIONS OF PRESIDENT JOHN F. KENNEDY AND DR. MARTIN LUTHER KING

STOKES' objectivity is demonstrated by his leadership of the assassinations committee. The Committee identified four main issues to be investigated:

1. Who was or were the assassin(s) of President John F. Kennedy and Dr. Martin Luther King, Jr.?
2. Did the assassin(s) have any aid or assistance either before or after the assassinations?
3. Did the agencies and departments of the U.S. Government adequately perform their duties and functions in protecting the two slain leaders?
4. Given the evidence the committee uncovered, is the amendment of existing legislation appropriate?

STOKES oversaw the 18-month investigation which ended in December 1978 with twenty-seven volumes of hearings and a final report containing recommendations for administrative and legislative reform. He performed admirably and impressively at the nationally televised committee hearings.

A down to earth side of Louis Stokes

Although STOKES is a very serious minded person, there is a lighter, more common side to the legislator. In addition to having a keen sense of humor, he often gets involved in humorous situations. One such instance occurred prior to a hearing for the late Dr. Martin Luther King, Jr. When STOKES was dining at a Thai restaurant in Maryland. After carefully perusing a menu that was not familiar to any of us, we all ordered something different. When STOKES had consumed about half of his order, he observed that the meal did not seem like the one he had ordered. Coming to the waiter, he was told that he was correct. The waiter said that they were all out of the meal STOKES had ordered and this one was a replacement.

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

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

Mr. Rangel. Mr. Chairman, I would like to join in thanking the gentleman from California (Mr. Edwards) for displaying his friendship and giving us an opportunity to share in that in talking about our colleague, Louis Stokes.

Mr. Chairman, I came just two years after Mr. Stokes came to the Congress, and I think all of us that arrive here, we think that anyone that was here before us just knows everything about everything, and it does not take too long after being here to find out that they do not know.

Louis Stokes was an exception to that resume, as related to me, because he continued to be a senior in terms of compassion, in terms of class, in terms of intellect, in terms of working so hard each and every night to help so many people, that even though it was only 2 years in terms of leadership, it was decades, because he came from a family that has known so little, and yet was given such great opportunities, and instead of just enjoying it, he and his late brother Carl have given back so much to Cleveland and to this great country, and, therefore, in their way to the world.

When I hear so many people say that America cannot afford a public school system in public housing, there is a lighter, more common side to the legislator, the accolades, that LOU STOKES has in this United States Congress.

It was not just God's will, it just wasn't hard work, it was someone really giving his family a hand in public housing. It was having public schools that were hard every day knowing that whatever they were denied, at least the kids would be given an opportunity. And, yes, in a country that
denied so much to so many people just because of their color, there came the GI Bill when the Federal Government said it doesn’t really make any difference what color you are, we will give you a chance to reach the height of your potential. I know that we never would have had an educated Carl Stokes, we never would have had an educated Lou Stokes, unless those in the Congress that preceded us were saying why not help all Americans, because you have no idea as to the great resources and jewels that we have. And this is not that unusual when there are so many people who have given so much, but never have been given the chance that Louis had to give back.

Lou Stokes, you have been an example for people, white or black, Jew or gentile, in this great country of ours, because no matter what the subject is, you bring a sense of class that makes us all feel proud to be politicians, to be legislators, and to be Americans. And you have a legacy for all of us, those like me who respond sometimes in anger, to restrain if not just because it is the right thing to do, but because we owe it to the dignity of this great House to do it.

We are going to miss you, Lou Stokes, but you have set standards for all of us to follow on both sides of the aisle. Even though you only came here 2 years before I did, to me you are a giant and you remain one.

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

Mr. Chairman, I want to congratulate the gentleman from Ohio (Mr. Stokes), not only for his work on this bill, but for his achievements throughout an outstanding and successful career in Congress.

Lou Stokes has served the public for many, many years, and in this Congress there is a lawyer, a veteran of the United States Army, he is a lecturer, he is a writer, he has been a chairman of many committees and a ranking member of many committees.

He has served when in the majority as chairman of the Select Committee on Assassinations, the Committee on Standards of Official Conduct, the Committee on Intelligence, and chairman of the subcommittee of this particular bill. He served, as fate has dealt him, in the minority as well. In whatever capacity he has served, he has served honorably, with good humor, and with great trust for his fellow Members of his subcommittee or his committee, and in a bipartisan fashion.

Lou is an honorable man. He has left his mark on the committees in which he has served because he has done the hard work that was necessary to do honor to this institution. In his retirement, with the feeling ofvoid that now we will feel, and in this Congress, we hope that his family will gain what we lose: A gentle, solid, comfortable presence.

Over the years I have heard the term ‘soul’ used, and I guess many would attribute their own meaning to the word. I guess if I had to give one concept to that term, I think I would attribute it to a person who enjoys life and loves this country. Lou, I just want to tell you that from my very distant view, the one that has become closer over the years that I have had the honor and the pleasure to know and to work with you, you have a lot of soul.

Ms. KAPTUR. Mr. Chairman, I move to strike the last word.

I rise with my colleagues at this very special moment to pay tribute to the dean of the Ohio delegation, always to me our good friend Congressman Louis Stokes. For myself personally, and I know for every single other member of the Ohio delegation, from our great buckeye State, when we came to Congress, Lou Stokes was here. He has always been here. For us as Members, for us as Americans who are able to imagine Ohio without Lou Stokes is to imagine an Ohio with a piece of its heart missing. And this particular moment of tribute is one of those moments in Congress that each of us who has had the pleasure of working and knowing this man will not forget.

Others have detailed the congressional service of our good friend, Lou Stokes, but perhaps it is important to remember that when he was elected to the Committee on Appropriations, he was the first African-American ever to serve on this very, very important committee of cardinals rising to be a cardinal in his own right.

I think as a woman having had to overcome some of the barriers in my own life, I can somewhat identify, but certainly not completely, with what that must have felt like. I think what has always amazed me about Lou Stokes is what a gentleman he has been, I think the kind of elegance with which he carries himself, the kind of elegance that causes his grandchildren to really smile at him with open eyes, is a quality that all of us truly admire and wish that we had ourselves.

I think if we look at all of the programs over which he has had jurisdiction within the Committee on Appropriations itself, whether it was the National Institutes of Health and the types of studies that are done there to recognize the types of illnesses that affect all segments of our population, or whether we are talking about who should go on to college and who has the opportunity to become all they can be, whether we are talking about who should have the GI Bill when the Federal Government denied so much to so many people just because of their color.

I know and to work with you, you have become closer over the years that I know for every single other member of the Ohio delegation, from our great buckeye State, when we came to Congress, Lou Stokes was here. He has always been here. For us as Members, for us as Americans who are able to imagine Ohio without Lou Stokes is to imagine an Ohio with a piece of its heart missing. And this particular moment of tribute is one of those moments in Congress that each of us who has had the pleasure of working and knowing this man will not forget.

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I speak as a junior member of the Committee on Appropriations, and I speak tonight symbolically from the other side of the aisle to pay tribute to Lou Stokes and the wonderful way that he has worked with members of the majority party and the minority party in this House and the great example he has set, and to say that it has been a genuine pleasure to serve on the Appropriations Committee with Lou Stokes.

I have served on two subcommittees with Mr. Stokes, Labor-HHS and VA-HUD, and I have heard tributes at the subcommittee level, at the full committee level, and I have listened with interest and with admiration and with agreement. I have heard him called by many descriptions, Mr. Chairman, and I subscribe to them all: Mentor, role model, a worthy adversary from time to time, a champion for his State and for his district, and a champion in every sense of the word, a classic, and a friend.

But, Mr. Chairman, where I come from, one of the most supreme compliments that can be paid to a man is to call him a southern gentleman, and in thinking about this I spoke with Mr. Stokes' other colleague (Mr. Kucinich, from Cleveland) and Tom levels, and decided that if one looks at the map just right, Lou Stokes comes from southern Cuyahoga County, and he indeed qualifies as a southern gentleman.

As a matter of fact, the gentlemanly conduct of Lou Stokes embodies those qualities that are universally admired, and that I have admired so much during the two terms that I have served with him on subcommittees. Lou Stokes never raises his voice. He never rails at individuals. He is effective. He gets the job done, and he has gotten the job done for his point of view, but always a gentleman in every sense of the word.

Henry Wadsworth Longfellow said, “Lives of all ranks are noble when we can make our lives sublime, and departing, leave behind us footprints on the sands of time.”

Well, Lou, you are departing this House, but I do not necessarily think you are departing the scene, and I certainly hope not. I have a feeling that there is much more service to this country, to society and to your fellow man, although I do hope perhaps you have a chance to spend a little more time with your family. I salute the gentleman, I admire him. Lou, I wish you the best of luck, and Godspeed in your next endeavors.

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

Mr. Chairman, first I would like to pay special thanks to the chairman of our committee, the very distinguished and gracious gentleman from California (Mr. Lewis), for making available this time here tonight to pay special tribute to another very fine member of this body.

Mr. Chairman, I rise to pay special tribute to the gentleman from Ohio, the ranking member of our subcommit-tee, its former chairman, and a true pillar in this House.

As other speakers have noted, this is the final VA-HUD bill that Mr. Stokes will help bring to this body. That saddens us all, because when Lou Stokes connected with Congress, and he served after three decades of faithful service to the people of the Cleveland area, this institution will lose one of its most passionate and principled representatives.

Lou Stokes is a man of keen intelligence and solid integrity who has blazed many new trails and risen to key leadership positions in this House. As chairman of the Congressional Black Caucus he dedicated himself to advancing policy issues critical to minority communities. As chairman of the House Select Committee on Assassinations he completed historic investigations into the deaths of President Kennedy and Dr. King. As chairman of the Committee on Standards of Official Conduct he handled the most delicate of cases with unfailing fairness. As chairman of the House Select Committee on Intelligence, he helped shape policies vital to our national security. And as chairman and now ranking member of our VA-HUD subcommittee, he has exhibited a deep understanding of complex issues and has been extremely responsive to the interests and concerns of each department, each agency, each subcommittee member, each member of this House, and each constituency group within our jurisdiction. Clearly, Lou Stokes has been given a diverse group of special assignments.

But there is a common thread, Mr. Chairman. They all serve as a measure of the trust and respect, real respect in which he is held by the Members of this body. He is held in equally high regard at home. The people of Cleveland feel a deep gratitude for Lou Stokes' lifetime of service. They know that he has always fought for their best interests with great energy, skill, and far more often than not, success.

On a personal level, Mr. Chairman, I am deeply grateful to have had the opportunity to work with Lou Stokes over the years.

In doing so, it has been my honor to carry on a family tradition. My father and Lou served together for many years in this House, and my father has always held him in the highest esteem. So do I.

I deeply appreciate the counsel, support, and friendship that he has accorded me. Lou Stokes is a bright, skilled legislator, a hard-working representative, a great friend, and along with his son, Chuck, and Trudy, a proud parent and grandparent.

In his words and deeds he is a complement, a tribute to this House and he will be missed, while at the same time his influence on this institution will be indelible.

Best wishes to you and Jay, Lou, as you leave this House for other adventures.

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

Mr. Chairman, I may have the distinction of knowing Lou Stokes longer than any other Member of the Congress, one that I am proud of. I am his classmate, and he served in the Congress with his late brother Carl, and he was a very. So do I.

Well, Lou, you are departing this House for other adventures, and I feel that is a moment of joy and sadness for all of us. I remember the first day Lou got to the House and he made me feel good. Not because I campaigned for him, which was not necessary at all, but because he told me the first bill he introduced was the Martin Luther King, Jr. holiday bill. Then he said, “Do you think it has a chance of really passing?” And 15 years later we found out that it did.

Lou, I thank you for your steadfastness across the years. It has been a very pleasant friendship. We have worked together on many number of activities. But to me, the issues that you have raised in connection with health, with the minority health issues, have always stuck with me more than any of the outstanding things that have you done. You have pioneered the whole notion of us understanding that there was a different dimension of health needs for those who were not affluent or able to buy insurance.

I can tell you that if you did with the African-American medical universities should be lauded for many minutes more than I am just briefly referring to them. They all know what you have done. On those medical campuses, you were able to see they got the much-needed financing and support and resources and also building activity as well, so that they could continue to put African-American medical graduates into the general population.

I think we must not forget the work you did on the committees that investigated the assassination of Martin Luther King and John F. Kennedy. That was incredibly sensitive, controversial work and your role there as the only African-American on those committees was very, very important to me.

Mr. Chairman, it should also be mentioned that Lou Stokes chaired the Committee on Standards of Official Conduct for a number of years, and did great work. He was also Chairman of the Permanent Select Committee on Intelligence. And so I have been pleased to enjoy this close relationship.

JULY 23, 1998

CONGRESSIONAL RECORD — HOUSE

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with you and Jay, the family. I hope and know that it will continue.

Finally, if nobody has said it, Attorney LOU STOKES is one of the few Members that have argued before the United States Supreme Court in the very successful civil liberties case of Terry and Ohio.

So, Mr. Chairman, we are losing a gifted, talented Member, a brother, and a person who understands government. And I am sure from whatever position he chooses to take, he will continue to send forth the lessons that he has learned, the principles that he has believed, fought for, and worked so hard over a period of 30 years throughout the land.

Lou, we love you and we will miss you.

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

Mr. Chairman, I played a little word association game and when I said “gentleman,” the first person who came to mind in this Chamber was LOU STOKES. When I thought about “class,” and how I would define class, I thought about LOU STOKES.

When I considered the concern that has been expressed in this Chamber by all of us about civility and the need we had to go to a special retreat in Hershey, Pennsylvania, I thought about myself, we did not need to go to Hershey, Pennsylvania, to learn about civility. All we had to do is watch LOU STOKES in action.

Then when I think about the humdrum life we all have, Washington, district, back and forth on the plane, traveling so much. So little time to really get involved in getting to know better some of our colleagues, which is a real shortcoming of this institution because it is made up of some of the finest people we will find any place in the world, Republicans, Democrats, liberals or conservatives. But we are all just scrambling to run back home and make that next meeting.

I said to myself, we are disadvantaged in many respects, but I have been very fortunate because very early in my career I got to know LOU STOKES and I got to appreciate all that he represents.

George Bernard Shaw said, “Some men see things as they are and ask why. I dream things that never were and ask why not.” That reminds me of LOU STOKES. I want to look to LOU STOKES when I am about to do something rash, I look to LOU because LOU has that attunement, he can say, “Well, now, Carrie, this can be done, but this is the way it has to be done,” and it is extremely important to me, Mr. Chairman, and to other Members of this House.

He is what I call a crossover Congreepserson, who works with the needs of both black and white in the Congress. Diversity is important to him. He has teamed up with our young white-haired leader of the Veterans and VA-HUD subcommittee. He teamed up with Mr. Lewis. I am sure he taught him a lot, because the two of them go hand-in-hand. They are just like Mutt and Jeff, because they work closely together. And I am very serious when I say to my colleagues that Mr. Lewis’ attunement, I am sure some of it came from LOU STOKES. And that, to me, means a lot.

And LOU STOKES didn’t do it by rabble-rousing. He didn’t do it by Bogarting. He did it because he is a statesperson. He is a diplomat. He does not cringe or step back from anybody, but because of this intellectual prowess, he has been able to go in places that many others cannot.

As chairman of the Congressional Black Caucus, LOU STOKES struck the consciousness of America with respect to the need to address the disparities in minority health care, from AIDS, to diabetes, to cancer, to...
lupus, to smoking-related illnesses. The list goes on and on, Mr. Chairman.

As a result of Mr. Stokes' efforts, Mr. Clinton, our President, included in the budget this year so many things. He sent to Congress an $80 million fund for the race initiative on health. You know who stimulated that? Do you know who was the prime mover in that? LOU STOKES. To begin with, he has effectively closed this gap.

Lou, you took the path that is less traveled. You did it with grace, you did it with intellect, and now you leave the underground railroad to us.

I have heard you talk about your mother. You addressed people over in HUD one day. These were people who were trying to understand the needs. Lou, you gave to the world the best you had and the best has come back to you.

Mr. FRELINGHUYSEN. Mr. Chairman, I LOU STOKES, and nobody could have a frame of reference as wonderful as Mrs. Carrie Meek's frame of reference.

What my brother, also my dear friend, Carl. And together you and I, Lou, were able to prove that in the big cities, and it has to be true in State and Federal Government as well, political power can, should and must be shared. It is essential in a democracy that political power be shared with minorities.

Rudyard Kipling once wrote about someone who could walk with kings and never lose the common touch. We see in Lou Stokes' career that he has had the common touch. People who have just loved him. All across our city people are looking for ways to honor his career, and all across our city, people who are aware of this moment, understand why Members of Congress from East to West, from North to South are standing up to sing Lou Stokes' praises because we know Lou Stokes in Cleveland, and we love Lou Stokes because of what he has done for our city and what he has done for our country.

You know, Lou, there is a test that a lot of us from the inner city make not only of public officials but everybody we meet, and it is a test that is a spiritual test, and we have often heard it. It goes something like this: When I was hungry, did you feed me? Lou Stokes has helped people in this country. When I was naked, did you clothe me? Lou Stokes has stood up for the dispossessed in this country. When I was homeless, did you shelter me? Lou Stokes has stood up for people when they needed housing. We love you, Lou Stokes, for the work that you have done for our people.

Somewhere in Cleveland today, you can bet on this, not only in Cleveland but in cities across this country, there will be a child living in adverse circumstances, maybe not even having a home. Maybe they are just sitting on a stoop marking the time, wondering if things are ever going to get better in their life, because things are pretty tough right now. Now, that person in America today could be black, could be brown, could be yellow, could be white. And when he or she is sitting there and feeling low, feeling down, wondering what is going to come and if things helped to lift up abilities as well, they could think about those young African American children who were born in poverty, who lived in public housing, who, through the grace of God and a mother who worked for them, were able to move through the ranks, come to power, reach the pinnacle, make American history, and they always remembered where they came from.

Children of America, look to Lou Stokes. Look to Carl Stokes. Historically, those are two of the greatest people in American history, and they are people who you can be proud to call Americans and we can be proud to call friends.

And bless you, Lou Stokes. I love you and I am glad to be here to say this to the American people.

Ms. CARSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and to my colleagues gathered here together as a part of the 106th Congress, it gives me a great deal of pleasure and pride and admiration to stand here in tribute to the honorable Louis Stokes from the State from the Buckeye State of Ohio. And Congressman Stokes, my predecessor, Congressman Andrew Jacobs, sends his love. And he told me to remind you of the time you and him both had a date with the Supremes. Something like that.

You would remember that. I hope you would understand that you were out with the Supremes, or perhaps where you were. But he said that was a night that he would always remember. I think it was because of Lou Stokes and not because of the Supremes, but we will never know.

I knew the honorable Lou Stokes prior to the time that I became a Member of Congress. Lou Stokes' good works has, like it was said, has been able to shine from sea to shining sea. I have been a long admirer of the Stokes family; Mayor Carl Stokes, Congressman Louis Stokes, in particular. He reminded me of a poet in his hard work for the people across this Nation and in instilling pride and hope; for that every drop of rain that falls a flower grows. And somewhere in the darkest night a candle glows. And Louis Stokes was certainly that candle that glowed in the very darkest night for so many people who were reaching out for help across this country.

In the course of his life and career, he has courageously confronted very tough circumstances and assignments. He served in the segregated army during World War II, and earned a degree in law when few, if any, law firms would consider hiring a man of Louis Stokes' complexion.

He challenged Congressional district minds in Ohio, becoming the first African American Member of Congress elected from his State and the first African American Member to serve on the House Committee on Appropriations. He skillfully served in numerous leadership roles in the House, including chairman of the Select Committee on the Presidential Assassination, the Committee on Oversight and Government Reform, the Permanent Select Committee on Intelligence, the VA-HUD subcommittee, and the Committee on Appropriations.
Mr. Chairman, the honorable Lou Stokes is widely admired throughout our Nation and our world, and certainly after his retirement the work that he has done for this country will endure. I admire, I appreciate, I am a beneficiary of his outstanding public service. And he reminds me of the psalmist that said that he shall be like a tree that is planted by the river's water that brings forth fruit in his season. And even though I know that Mr. Stokes' season has not ended, that all of the beautiful fruit that he has borne throughout his public service will continue to endure for many years to come.

I stand here in a great deal of humility, Congressman Stokes, to say thank you for all that you have done.

Mrs. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I move to strike the last word.

The first thing I want to do is thank the people of Cleveland for sending Lou Stokes to Washington. Lou Stokes has reached Lou Stokes many years before I had the opportunity to come here.

When I came, I left the Texas Senate, where we had battles through debate. But Lou Stokes has taught me that that is not necessarily the way to get things done, and he has taught me that without ever saying a word to me on that issue. I simply had to watch him and that taught me.

When you go before the committee where Lou Stokes was, it is the most wonderful experience because of his partner, Congressman Lewis, so kind and respectful, that even when you don't get what you go for, you can't even get angry because they have been so nice.

But Lou Stokes has been steadfast. He has taken care of the very basics for everyone. When it comes to housing, when it comes to education, when it comes to health care, there has never been a time when he has not had his finger right on the mark.

Everyone in those areas throughout this country, notwithstanding their heritage or background or race, know Louis Stokes for those areas. There are very few Americans that cannot be very grateful for the many things that he has done. The veterans know about Louis Stokes and health care. And of course, every poor person and every African-American knows that Louis Stokes has spoken up for all of the persons who have not; and Louis has done it with class, dignity, integrity.

Within our Congressional Black Caucus, we have a little private joke when we talk about the romance between the gentlewoman from Florida (Mrs. MEEK) and Louis Stokes. She got there before I did because she was on the same committee with him. We are going to miss that. We are going to miss you, Lou. Louis Stokes has spoken up for all of the persons who have not, and Louis Stokes has spoken up for all of us.

There is not a single Member of this body who could tell us about any harsh word that Louis Stokes has ever spoken. There is not a Member of this body who could tell us that he ever disrespected them. I do not think there is even a Member of this body, even when he could not deliver on that committee, who would tell us that he has ever hurt their feelings.

It is only after a lifetime that we have such a giant in a body like this. I am grateful for the opportunity to have served with him after admiring him for so many years. And for a committee that pleases so few people, they have listened to the oddest leaders, people that are kind and respectful, smiles on their faces. And I have a feeling that Louis Stokes helps to influence all of it.

We are grateful for you, Louis. We thank you. We love you.

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

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

Mr. DIXON. Lou, first of all, I would like to thank you for your advice and counsel over the 20 years in which I have served in this House. In listening to the testimony today and the tribute to you, I recognize over those 20 years that it was your service and courtesy and friendship to members of this House, on both sides of the aisle.

I am reminded, Lou, of Lorraine Hansbury's writing when she said that "It is not 'lift your little finger except for confrontation with the problem to be resolved.'" And you and your brother Carl have been confronting and resolving problems for folks of this country for many, many years.

I cannot add much to what all of the Members have said about your fine service to this institution, whether it be on the Intelligence Committee or the House Ethics Committee. But I would like to single out something that I have noticed over the years that other Members have not addressed today, and that is your development of minority staff in this House.

Many Members of this House benefit from fine staff because you first gave them the opportunity, and there are people in government who received their first opportunities, men and women and minorities, because Lou Stokes gave them that first opportunity, and probably that will be one of your lasting legacies in large measure.

I know that as you move on that you will continue the legacy of confronting and resolving problems because you are a man who lives a full life. And I firmly believe, as I think you do, that that is what life is really about.

You will still be in this House. I know that we will all continue to have your friendship. This institution is better because you served here, and you can be assured that you will never be forgotten.

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

Mr. Chairman, next year the Chicago Bulls may be without their superstar, Michael Jordan. If so, that will be an irreplaceable loss. In the next Congress, we will be without our superstar, my friend, our colleague Louis Stokes. That will indeed be an irreplaceable loss.

I know the story of John Henry, the steel-driving man. He built the railroad with his bare hands. When all others and all else failed, John Henry performed. Lou Stokes is a modern-day John Henry. He has helped to build this institution, the Congress of the United States, with his bare hands. He has not used fancy gimmicks, high technology, nor futuristic gadgetry. Louis Stokes is not that kind of person.

Mr. Chairman, he has helped build this institution with good old-fashioned statesmanship, unblemished credibility, impeccable integrity, honest dealing, and a deep commitment to public service. While we lament the loss of Lou, we rejoice at the gain for his family, his lovely wife, his wonderful children and grandchildren, all of which grew up within the Congress and who he loves dearly.

Louis Stokes of Cleveland has always been up to the challenge and prepared for the task. But most importantly, when all else failed, when the machines did not work and the mountain would not move, we could always count on Lou. Louis Stokes is a steel-driving man.

Born of humble means, throughout his life, Lou refused to accept mediocrity. He had hopes and dreams. He had goals. He had a vision. He dared to be different and determined to make a difference in this society. These qualities carried him through college, through law school, and these qualities compose him today.

But Lou will quickly tell us that, while motivation may have come from within, inspiration from his mother indeed was his mainstay. I am always moved by the account of how his mother struggled to provide a life for him and his brother, yet through the struggles, she never failed to push him forward, to urge him on, to make him believe in himself and what he could be and become. And he has done his mother proud. He has done us proud.

Uniting more than two decades in Congress, Louis Stokes has distinguished himself, making his mark in many places, leaving his permanent imprint in the sands of time. tiresely, he has been a role model for role models and a champion for all. Here he has been more than a Member of Congress. He has been the pulse of what is right, the heartbeat of the downtrodden, the standard bearer of the citizen's first line of defense for those in need of housing, the first line of defense for the homeless, the lifeblood for seniors and young people and women and the disenfranchised, the conscience of us all.

He has been especially vigilant in the area of health care, particularly in the minority community. When AIDS confounded most of us, there was one of us...
who confronted it. When disproportionate Federal spending in health care frustrated many of us, there was one among us who stood firm and strong.

When the disparity in mortality rates between majority and minority populations within US society was one of us who met the matter head on.

History, we are told, is a chronological record of significant events. A significant event is an event that is momentous, profound, pivotal, an event that has a difference in the course of our lives.

I can tell my colleagues, Louis Stokes has been all of that. He has been momentous. He has been profound. And, indeed, he has made a difference in the lives of us who have served with him, a difference in the lives of America. He has made history.

He leaves us now not to quit but to fight another fight, to write another chapter, maybe another book or two, to run another race. We know, as the writer of the best book and the best race yet been written, the best races have yet been run.

Yes, the Chicago Bulls will never be the same without Michael Jordan. And I can tell my colleagues, this Congress will never be the same without our friend and colleague, Congressman Jerry Lewis, for asking for that we may join in a tribute to this very special person who has provided such a high standard of leadership to this House for more than 28 years, a great American, founding member and leader of the Congressional Black Caucus and chair of the Health Braintrust which he established, Congressman Louis Stokes.

As a physician, I have the privilege of nominating Congressman Stokes for the Dr. Nathan Davis Award of the American Medical Association. I am pleased to report that the AMA demonstrated its great astuteness and insight in accepting this nomination and naming him as the 1998 recipient of this prestigious and well-deserved award.

Although he has already received our highest honor in 1994, I also look forward to being present on August 1 in New Orleans, when the National Medical Association, of which I am a member, again honors Congressman Stokes for his years of exemplary service and unwavering commitment to this country.

For all his work, his service on the VA-HUD Appropriations Subcommittee, for the Underground Railroad, and especially to me for his service on the Pepper Economics, the Labor-Health Human Services-Education Subcommittee, and the Health Braintrust of the Congressional Black Caucus, he will leave a significant, far-reaching and enduring legacy at the end of the 105th Congress, a legacy of legislation and programs which have served to elevate the level and the standard of health and health care not only for people of color but all Americans.

And so, I am pleased to stand here to thank you, Congressman Stokes, for many reasons. As a newer Member, I want to thank you for your stellar example and unselfish willingness to teach and to guide me and others and assumed our places in this great body. I thank you for your work on VA/HUD and especially for your contribution to our veterans. I thank you for your legacy of decency, compassion, candor, integrity, and fairness.

I thank you especially on behalf of minority physicians, the poor and people of color everywhere, for you cemented the Lou Stokes spirit as I serve. God bless you.

Ms. Lee. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is really with a deep sense of honor that I come to join colleagues today to pay tribute to an exceptional man, a leader who has really been more than an example. Congressman Stokes has been a mentor and a guiding force not only to me but also to other congressional Members, to African-Americans in America at large. A policy reformist, a health and education advocate. But he has really been a teacher. He has set the standard for quality in leadership. Mr. Stokes, as I have heard from the floor, what he has done for this institution. Throughout the years he has stood as a superior example for social advocates and activists.
In the heat of the civil rights movement, he triumphed as the first African-American from the State of Ohio to be elected to Congress.

When I was here as a staff member for my predecessor, this goes back to 1975, I then when you were then during those years appointed to the House Select Committee on Assassinations where you served as chair and disclosed valuable information about the assassination of President John F. Kennedy and Dr. Martin Luther King Jr. LOU STOKES always sought the truth. I marveled at how he handled and chaired that committee. His invaluable influence guided many of us to stand up for underrepresented Americans, young and old, poor, black, white, yellow and red. His work has torn down barriers to health care and has saved lives. Congressman STOKES opened doors that would have been closed and expanded access that otherwise would have been denied. He is really what Dr. Martin Luther King Jr. once navigated a drudgery is for justice. He was a trailblazer of the Congressional Black Caucus’s reform efforts to reform health care. His Underground Railroad Network Freedom Act, an act to establish a memorial for African-American slaves, finally bringing them the honor that is long overdue, is historic.

Last weekend I had the privilege to visit Seneca Falls and Rochester, New York with Congresswoman Louise Slaughter. This is an area whose many stops were on this underground railroad. LOU, I just want to thank you for your vision and your hard work. We all have got to ensure that this important history is preserved. Without your leadership, this institution would not be the same.

Congressman STOKES leaves a rich legacy that will bring lasting change which has made a tremendous difference in the lives of all Americans. Today I just stand here to say thank you, Lou STOKES, thank you on behalf of the 9th Congressional District. I want to thank you for your tireless service, for your mentoring, for your guidance, for your feedback, for all of your assistance that you have provided to me as a new Member of Congress.

Great challenges are ahead for all of us. But the ground that you have laid really provides a firm foundation from which we can meet those challenges. I wish you the best. I am confident that this has entered a life is going to be extremely exciting. God bless you.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word. I do want to begin, I was in my office, Congressman STOKES, and busy with paperwork, but I said, oh, this paperwork can wait. And so I rushed here hopefully to arrive in time to say a few things from the heart about Lou STOKES.

We all know this famous quote. If it has been repeated to this body earlier in the discussion, I apologize; but it bears repeating, because it applies so well to our colleague, Louis STOKES and we have all been expressing these same sentiments. It is the famous quote by one of your Democratic predecessors, Senator Hubert Humphrey of Minnesota: “The moral test of government treats those who are in the dawn of life, the children; and those who are in the twilight of life, the elderly.” That clearly depicts what LOU STOKES’ life has been all about. You have contributed to that moral standard of government, Congress. We are going to miss you terribly.

I must say that I did not have the privilege of working on the committee with LOU STOKES, but when I was ranking member on the Housing subcommittee, I knew that any of the good things we wanted to do in housing, we had to depend upon LOU STOKES’ good word and courage and foresight to be able to implement those programs and get from legislation into real action in real communities. I am sorry I could not work with you more directly, Lou, but I certainly was one of your admirers and one who appreciated everything you did in the housing area. But I want to repeat to you what I think is more overshadowing of all that we do on a day-to-day basis, and, that is, how we as a Congress address the real needs of the American people and the manner in which we do it and the moral standard that we set. I think we do it.

I will repeat to you something that I just heard recently, not from a constituent of mine but someone I know from the Northeast who is a small businessman, has a construction company, and I have known him for many years, and his wife has a realty business. They are good, strong Republicans, Lou. But you would like them. This gentleman said to me recently when I asked him, over the fourth of July recently, if he would wear black shoes. Should I take back to those inside-the-Beltway types down in Washington?” Without any hesitation, this conservative Republican said to me, “Well, Congresswoman, would you please go back and tell them that we should get rid of the bitter partisanship and return civility to our national government and the way we are conducting the people’s business and deal with the issues that count for the American people.” And I thought, “I think these accolades and these testimonials, being given to you, Lou, I thought that is exactly what this man meant. Lou STOKES is the kind of person that this businessman was talking about. LOU always stood on principles—you always have, Lou— and you adhere to when we decided these qualities of civility and democracy and demonstrating your respect for everyone.

Lou, we need more people like you. We are going to miss you terribly. But I hope that in everyone’s mind, the image of Lou STOKES as that kind of moral being who added stature to the business of government will be remembered. We will try to follow in your footsteps. God bless you and best wishes to you always, and to your family.

Ms. WATERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I come to the floor today and take this opportunity to join with my colleagues in paying tribute to an unusual human being. I am delighted to be a part of this tribute, because long before I came to the Congress of the United States of America, I knew who LOU STOKES was. But, of course, most African-Americans in this country not only knew LOU STOKES was, they knew about LOU STOKES and Carl Stokes. Because LOU STOKES and his brother Carl were pioneers. They were in the forefront of African-Americans getting elected to important and high offices. Most of us who watched them from afar aspired to be like them. They let it be known that they were prepared to work hard, to do what was necessary to provide leadership in this Nation. And so they helped to pave the way for us. We have watched and we have appreciated his work for many years.

He was a friend of my husband’s long before I met my husband in Cleveland. My husband played for the Cleveland Browns. My husband as a football player had to have mentors and those that he looked up to. And, of course, it was LOU and Carl. They were the shining examples not only of what those who wanted to be elected officials wanted to be like to be but for all of the young men in America who were aspiring to realize their full potential. It was the LOU and the Carl Stokes of the world who helped them to understand what they could be, and what they should be.

And so I want you to know, when I came to the Congress of the United States, I came with full knowledge and appreciation for LOU STOKES. And as chair of the Congressional Black Caucus, I stepped into this role and this position behind many great individuals. LOU STOKES was one of those. He took over the chairmanship of the Caucus in 1972, and he served in 1972, 1973 and 1974 following the resignation of Mr. Diggs. And he set the tone. And he helped to make the rules. This was after he had helped to found the Congressional Black Caucus. They set the tone, they made the rules, and they determined where it was going to go, and what we should do, those of us coming behind that life.

And so in my work today, I have to ask myself almost on a daily basis, what would LOU STOKES do in this case, and what he would do. And so I ask myself almost on a daily basis, what would LOU STOKES do in this case, and what he would do.

What must I do to follow in that tradition? How must I make decisions that will make him proud of me and my work? So I have to look at what he has done.

Let me just say for the Congressional Black Caucus, we look to him for guidance all the time. When we are going down the wrong path, we will get a
visit in the Congressional Black Caucus from Lou Stokes, and he will quietly join in the discussion, and he will tell us what he thinks. No one has anything else to say after Lou has spoken. When Lou speaks, the world listens.

We know that when he takes time to give us his guidance that we should take it, and we do. I have a real appreciation for that, because this is a man who is not only a great family man, who has the kind of marriage and family that a lot of people should try to model. What we should all try to do, he and his wife are a team.

When you see them together, you know right away that Jay and Lou Stokes have profound respect for each other, and they work together, not only in the guidance of their family, but carrying out much of the work of the Caucus and the spouses and this Congress.

This man, whose wife is his soul mate and whose teamhate have four wonderful, accomplished children and, I think, about seven grandchildren. They are truly a very strong family. I thank him for providing that picture for America so that they can see that, not all political candidates are able to carry out this great family life, but there are some who do it and do it well. Not only is he a family man, but he is a public policy maker extraordinary.

He really has helped to write the book about what a legislator should do and be. Yes, he has paid attention to African-Americans in this country. Yes, he understood that he was on the cutting edge of work that must be done to help give recognition to and to legislate for people who had not been legislated for in the history of the Nation.

Congressman Louis Stokes authored the Disadvantaged and Minority Health Improvement Act that has paved the way for thousands of poor disadvantaged minority youth to take advantage of all that you can while he was he nervous? How did he feel? All he said was, "I did not even think about stepping up to the plate. I just remember sitting next to Willie Mays."

Well, I can say that my first experience here, and being next to this giant in this country, I have been a little bit nervous. Mr. Hefner, Mr. Chairman, I move to strike the last word.

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

Mr. Chairman, I will not take 5 minutes, but I have long admired Lou Stokes. I remember many, many years ago when I was in grade school and I read about Lou Stokes. And he has been in public life when he had to struggle to get elected. It was a real struggle for Lou to do the things that he wanted to do. I have got to tell you there is an old saying down home where I come from, when we live out in the country, and if you had a chance to get away for a weekend or go somewhere, there was always a neighbor around that you would look to and you would say I want to get them and come in and look after my things. And Lou Stokes is the kind of a guy that I would trust to come in and keep my house key and do up and look after my things. He is that kind of a man.

I cannot say enough good things about Lou Stokes. His legacy will live long after he has gone to retirement. A gentleman of the highest order who epitomizes what a legislator should be, who looks the walk, and the main thing is gets results.

My predecessor, I asked him before I came, I said, you have been successful, how has he done that. A very dear friend of mine in North Carolina, he has passed on now, and he always said in closing his statements, and I will say this to Lou, Lou, I hope you live as long as you want and never want as long as you live. Thank you so much.

Mr. Meeks of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to say thank you to a man who is a living legend, a man who is a hero, not only an African-American hero, but a true American hero. For surely I do not believe that I would be standing here today in this august body as a Member of the United States House of Representatives if it was not for the trailblazing work of Carl and Lou Stokes.

I remember, while in high school, maybe it was junior high school, when Carl and Lou Stokes began to run for office in the City Council. As a young boy, I would scratch my head and say, why can we not do that in New York? That was the beginning of me having an opportunity to admire, look up to, having an idol, and having a hero and a role model in Louis Stokes. I can recall attending the great Howard University School of Law; and while in evidence class, my professor was talking about the landmark case of Terry versus Ohio, and said you know that there was a man that works over in the Capitol that was one of the attorneys on this landmark case? That was Louis Stokes.

I can recall attending my first Congressional Black Caucus weekend and sitting in the seat and watching Mr. Stokes move about and being in awe. Little did I know that, at that time, that I would be having the pleasure and the opportunity of saying that I served, though ever so briefly, with Louis Stokes.

I recall when Willie Mays was traded to the New York Mets, there was a rookie on the team at that time. In the newspapers, they were asking the rookie, when he took his first step at the plate, was he nervous? How did he feel? All he said was, I did not even think about stepping up to the plate. I just remember sitting next to Willie Mays.

Well, I can say that my first experience here, and being next to this giant in this country, I have been a little bit nervous. Mr. Hefner, Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is easy to forget in the span of 30 years what 1968 was like. It was an extraordinary time in America. It was a time of great difficulty and great promise.

In Cleveland, Ohio, the great promise was the light that was lighting by the Stokes brothers. We have heard much said about that. It is a light that has been a beacon that has stretched across the United States of America.

But I would like to illuminate 1968 from a different point of view. 1968, the year that Lou Stokes was elected to Congress, the year that his brother
served in his first year as mayor of Cleveland was, indeed, a troubled time.

In some ways, it was more difficult than even some of the problems that we face today. That is not to minimize the problems that we face, but that was the year that I began to teach at Cleveland Central High School across the street from the oldest public housing project in the United States, not far from where Louis and Carl Stokes grew up and established their roots and blossomed into the kind of leaders that they became.

But on that November morning in 1968, following the election of Louis Stokes to the United States Congress, in the first classes that I taught that morning the first Wednesday of school that morning the first Wednesday of the year that I began to teach, I had the privilege of teaching to a class filled with conversation about what this meant in their lives. It was a vague sense, it was an unformed sense, but it was brightened by the hope and aspirations that were giving new meaning and new life to an election that happened the very next month than the year that this Nation had endured since the Second World War. It was a vision of hope.

We have heard a great deal said today about the enormity of the model that Louis Stokes established or created, and people all across the Nation in very large ways. But just let me say to my colleagues that those 600 kids that I had the privilege of teaching across the street from that housing project and who came in that classroom that next morning and said you know, he is from our neighborhood, the opportunities that have been given to them as a product of the model that Louis Stokes has represented is more than that.

It is not only the model and the example, it is the real world opportunity, not only to run for office but as we have heard, to undertake careers unthought of before, careers in law, in medicine, in research, in science, and industry. But just as important, careers as policemen and as firemen and working in places that they might a generation before never have had the opportunity to work.

That is not just a model. That is day-in and day-out effort to live in places of decency and cleanliness, to grow up in cities that are safe, to have access to what we speak frequently of as the finest health care delivery system in the world, it means little if you do not have a job.

It has meant a time in which we have seen the life-span of Americans increase 10 years in the last 30 and even more than that for African-Americans. That is a contribution of enormous effort that saw its light bloom in the eyes of hundreds of kids across the City of Cleveland as they came back to school that morning the first Wednesday after the first Tuesday after the first Monday in November of 1968.

Those lives that I have changed in ways large and small, and they will change the lives of others in ways that will spread throughout a Nation. It has been because of the work of Lou Stokes and the example that he has set for so many others. It has been a privilege to serve with him, and we look forward to his guidance for years to come.

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

Mr. Chairman, I know Lou Stokes well enough to know that by now he is very uncomfortable, and I am not going to take five minutes making him more uncomfortable, because the more amazing things we say about him, the more uncomfortable Lou will become, and I can see him squirming in his seat now with discomfort.

I met this man, and I am sure Louis does not remember this, before I came to Congress, in Charlotte, North Carolina, when he was visiting with friends there and visiting his daughter, who was an anchor person in the North. Neither Lou nor I had any expectation that I would ever be a member of Congress. I remember going away that evening after having met him saying, "That is a really nice guy." I was not a college student even then. I know him, and I think it is that quality that people pick up on that says something about Louis Stokes.

It is easy to be nice to people that you know and respect as your equal, but that you are not comfortable with. It takes a special person, a humble person, to respect and be nice to everybody, and I have yet to see Lou Stokes be not nice to anybody.

It is that quality that I think I repect and love about Lou Stokes and that I will always remember, and that is a personal feeling that I have about it. That aspect of it I cannot ever get away from. Aside from all of the wonderful things he has accomplished, I just know that this man is humble and respects the views and respects other people enough to always be nice to them. I just want to tell him how much I have enjoyed his friendship and being in the same body with him. I will yield back, so as not to continue to make him more uncomfortable.

Mr. GEJ Denson. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to join the chorus of statements about our colleague and our friend that this is not an ordinary member of Congress, when you see the number of people coming in to speak today.

I just want to say from my own memories, for people who are interested in the struggle for justice in America, in the second year of high school we learned who Lou Stokes was. Again, with great names like Mo Udall and others, he served in Congress. Like many of the people here, I never expected to have the privilege of serving with him.

I think my friend is correct, he is a little uncomfortable in this position and the time we are taking, but I would think that everyone recognizes the 30 year contribution, not just being here, but the contribution you have made to this government, to this country and its people, is well deserving of the praise. I am just privileged to have spent the last 33 years here serving with him. Like many others, I have admired your ability to fight hard, stay civil and stay committed to the things you believe in.

Thank you very much.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am also very pleased to rise in this tribute to my good and long term friend and colleague, Congressman Lou Stokes, who has really been an inspiration to me personally and such a hero to many people throughout this country, including myself.

At a time when public cynicism about elected officials runs rampant, Congressman Stokes has been the embodiment of all that is good and positive about public service. During a political year marked by bitterness and animosity, Lou Stokes has remained a model of decorum, diligence, dignity and such a hero to many people.

He has been there to fight the good fight on behalf of better housing, access to quality health care, for veterans and for senior citizens, to rise in this tribute to my good and long time friend and colleague, Congressman Lou Stokes, who has really made to this government, to this country.

I think my friend is correct, he is a time of great tenseness. But it took a man like Lou to manage the task of improving the quality of life for millions of Americans. He has been there to fight the good fight on behalf of better housing, access to quality health care, for veterans and for senior citizens, to rise in this tribute to my good and long time friend and colleague, Congressman Lou Stokes, who has really been an inspiration to me personally and such a hero to many people throughout this country, including myself.

Even before my election to Congress, I had the pleasure of getting to know Congressman Stokes and his late brother, Carl, who served as Mayor of Cleveland and later Ambassador to the Seychelles.

As you know, it was Congressman Stokes who managed that election in the late-sixties and it was his skill and Carl's ability that made that election successful, the first major city in the eastern part of the United States to elect an African American mayor, at a time when there was a tremendous amount of civil unrest. In my City of Newark, in 1967, there was a rebellion and 28 people were killed. So it was a time of great tenseness. But it took a combination of a Lou Stokes managing and a Carl Stokes, descendants of slaves, out opposing a descendant of a slaveholder and being in the same body with him, we certainly were deeply saddened by Carl's passing in 1996.

Congressman Stokes has been a true friend, going the extra mile, and never asking anything in return. When I decided to run for the prestigious and awesome position of Chair of the Congressional Black Caucus in 1993 to serve in the 104th Congress, I went to H6236
Congressman STOKES and said I was interested and sought his approval. He simply gave me advice and encouraged me to move forward. He said, “it is going to be a tough election, but, more importantly, if you are successful, it is going to be a tough position, and if you are not ready for it, don’t seek it.” I assured him I was ready, and, once I was elected, I always looked to Mr. STOKES for guidance.

Recently on an occasion I had the privilege of joining Mr. STOKES to visit my district. He was kind enough to accept an invitation to be a guest speaker at an event in my honor. Mr. STOKES is very punctual, and he got to my city about an hour early. I had to rush and speed up to meet him at the airport. We decided, since we were early, we had a few moments, and stopped by a local eatery in my district called Mrs. Dee’s.

Well, I go there often, but I never get the excitement that I got when Congressmen STOKES and Mr. Chairman, he is like still water in my district who did not know who I was ran up, and I said gee, I guess I am moving up in my recognition factor. And they all rushed right by me to grab Congressman STOKES and said, “We need to see you.” I looked around, and the place went by me to just shake the hand of Congressman STOKES. That is the type of person he is. We were so honored, because he is a man of humble beginnings.

Recounting my life, you may know he received an award for being one of the most prestigious “graduates,” I guess we could say, from public housing, and that was a great honor, to be recognized in this country as a person who really looked out for the little guy, for those struggling on a daily basis to hold their lives together, to provide for their children.

When I walk through my district, I see visible reminders of what Lou Stokes did during his service in Congress. As a senior member of the House Committee on Appropriations, Congressman STOKES’ door was always open. When I sought his assistance for initiatives of importance to my constituents, because of his efforts, we have been able to make improvements in housing, to restore a public park known as Weequahic Park, to help abandoned infants and children stricken with HIV, to train students for health and science-related work at a site of Weequahic Park, to take the rundown and economically distressed area and turn it into a revitalized waterfront, and now we have a world class performing arts center.

Congressman STOKES has been a tireless defender of what is right and just. He has made an enormous contribution to the field of health care, notably minority health issues, which have been shortchanged for so many years.

Mr. Chairman, I want to thank my friend Lou Stokes and Jay, his wonder-ful wife, but we know that he will continue to use his talents and to voice his concerns long after he leaves this institution. We wish him well as he enters the next phase of his life, and we thank him for all he has done for this institution and for his country.

When this CONGRESSIONAL RECORD is printed tonight, when I receive my copy tomorrow, I am going to have copies sent to my local libraries, and we are going to have copies made to distribute to students in my district who feel shut out, who feel that they cannot make it. I am going to ask teachers to use this CONGRESSIONAL RECORD as a tool so that they can understand how many great African American persons are still amongst us.

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

Mr. Chairman, I rise this evening because I have LOU STOKES on my mind and Lou Stokes in my heart. I never met a man who exudes the kind of quiet leadership, the kind of quiet power, who has ever exuded the kind of excellence that LOU STOKES exudes on a day-to-day basis.

LOU STOKES’ quiet leadership has endured throughout his tenure in this body. We have heard other Members talk about his soft-spokenness, but even with that soft-spoken voice, his message has resounded beyond the halls of this Congress.

When he speaks, his views contain a depth of knowledge and understanding and compassion that is unsurpassed. Lou Stokes has been an unwavering knight fighting on behalf of the under-served, those who have no voice, those who are outcast in this society. He has used a sword of public consciousness to slay the dragon of indifference. No matter what the issue is, whether it is housing, health care, civil rights, he always has remained at the roundtable of courage.

LOU STOKES, Mr. Chairman, is an individual that you cannot help but love and respect.

Mr. Chairman, I believe that God almighty ordains us, calls us to different types of ministries, and I believe that God has called Lou Stokes to the ministry of public service. I know that LOU STOKES has answered that call, because I know that people who right now feel as though they have no friend at all in government, who feel as the government does not represent them, does not care about them, I know that they all feel a certain affinity and love and respect for Lou Stokes, because Lou Stokes goes against the grain.

Mr. Chairman, at a certain moment in time in Chicago, Illinois on the West Side, Lou Stokes led a contingency of black Congressmen into Chicago to find out what was going on, to expose the injustices that existed at that time, and, Mr. Chairman, I say to my colleagues today that his courage in leading that group of Congressmen into Chicago deflected the bullets that were aimed at those members of that organization. I say to my colleagues, Mr. Chairman, that right now there are only 2 members of that delegation that serve in the Congress today: The gentleman from Missouri (Mr. CLAY) and the gentleman from Cleveland (Mr. STOKES).

This 22-year-old young man who found himself as a member of that organization at that time, the Black Panther Party, now finds himself as a colleague of Lou Stokes in the United States Congress. And I know, Mr. Chairman, that right now there are only 2 members of that delegation that serve in the Congress today: The gentleman from Missouri (Mr. CLAY) and the gentleman from Cleveland (Mr. STOKES).

This 22-year-old young man who found himself as a member of that organization at that time, the Black Panther Party, now finds himself as a colleague of Lou Stokes in the United States Congress. And I know, Mr. Chairman, that right now there are only 2 members of that delegation that serve in the Congress today: The gentleman from Missouri (Mr. CLAY) and the gentleman from Cleveland (Mr. STOKES).
That if, indeed, he had not armed himself with the shield of public consciousness and with a shield of public opinion to deflect those bullets, then I would not be here today.

Mr. Chairman, since I have become a member of Congress, and in one life I have led a pretty full life, I have seen all types of individuals who call themselves leaders, who want people to follow them wherever they may lead. But Mr. Chairman, I say to my colleagues, there is only one endeavoring kind of leadership, that is the only kind that is worthy of note and that is the quality that Mr. Stokes has.

Indeed, Mr. Chairman, he is a quiet warrior, but a very, very effective warrior. He is not a flash in the pan, he is a person who endures. His example will be a beacon light for all of those who follow; his example will be a beacon light for all young men in America who want to rise above their conditions and become and assume the mantle of greatness.

Mr. Jackson of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, just about a week or so ago I told Congressman Stokes that I had been preparing remarks for this occasion. The truth of the matter is, Mr. Stokes, I really do not want to say goodbye, and that is the honest to God truth.

On the day that Congressman Stokes was born, February 23, 1925, there was no African-American representation in the United States Congress. In fact, there had not been for a quarter of a century since January 1 of 1901, when George White of South Carolina said that, "One day, Phoenix-like, we will be back." There had been 22 African-Americans that had served in Congress between 1870 and 1901, the first Congressional Black Caucus, but we did not return until Oscar DePriest, a Republican from Illinois, won the election in November of 1928. Louis Stokes at that time was 4 years old.

Fifty years later, Louis Stokes was elected to the United States Congress on his first bid for public office, the first and only African-American ever elected to Congress from the Buckeye, or as the politics were known 130 years ago, the butternut State of Ohio. I am the 91st African-American ever elected to Congress. Congressman Stokes was elected to the 91st Congress and has served 15 consecutive terms 30 years since then. I was 3 years old when he came to this institution.

For perspective, there are been 11,544 Americans to serve in Congress, and only 109 African-Americans have ever had the privilege of serving in the Congress and in the Senate. Of the 109 African-Americans who have served in Congress, Lou Stokes, Mr. Stokes, is a world historical figure.

As a founding member of the second and current Congressional Black Caucus and as the Chairman of the CBC's Brain Trust on Health, he is the leading African for addressing health care needs in African-American communities. To his leadership on the special Committee on Intelligence, investigating the possible conspiratorial deaths of Martin Luther King, Jr. and President John F. Kennedy, to his current role as the third ranking minority member of the House Appropriations, to the ranking minority members of the Subcommittee on Veterans Affairs, Housing and Urban Development and Independent Agencies, to his 11th ranking seniority among all Democrats, to his 11th ranking membership amongst all Democrats, to the recent passage on June 9, 1998 of H.R. 1635, the National Underground Railroad Network to Freedom Act, he has been a good man and an effective legislator.

With elections every 2 years for 435 Members of this body, some Members come and go having never left their mark or impacting the lives of their constituents. But as a result of his 10 years in the House, he has impacted people who can grow up with greater expectations and brighter futures, with more health care options, with better affordable housing options and more equal educational opportunities.

With every election I have to say thank you to Lou Stokes, thank you because there have been in his 30 years no letdowns, no scandals, no public embarrassment, no funny money, nothing that has shamed us. Nothing that is associated with the word "snoozer" that brings a lack of dignity to those of us who long so hard for the opportunity to serve. So, I cannot honor Mr. Stokes enough.

When I first came to Congress all of my colleagues said, please call me by my first name because we are colleagues now. Chairman Lewis says, call me Jerry and Ray LaHood says, call me Ray, and Roeper says, call me Tim, and others want to be called by their first name. I always called Chairman Stokes Mr. Stokes. Why? Because I cannot thank him enough for all of the health care that he has fought for, for all of the options that he has fought to open up America for more people; I cannot thank him for every affordable housing fight that he participated in. I cannot thank him for every dollar that he appropriated for historically black colleges. I cannot thank him enough for all that he has done for so many families, for people that do not even know his name. I cannot say thank you enough. So the only way that I have honored Mr. Stokes is by calling him Mr. Stokes.

Mr. OBEY. Mr. Chairman, I wanted to say something to the gentleman from Ohio (Mr. Stokes) tonight. I will not have time enough to say all that I want to say, but it is time enough to bring an end, someone had to, a merciful end, to this line of tributes to the gentleman.

Lou, I want to say what has struck me most about you is your capability for love for all of your colleagues, for the institutions that has served us all so well, the Congressional Black Caucus and the many other institutions here, and for the institution of Congress itself. That you have a great and enduring sense of humor. You and I find time to laugh on this floor all the time, and you have proven you can have fun and get something done and that while we have serious business to conduct, we do not have to take ourselves too seriously.

You have been deeply concerned about affecting the lives of other people. You have been a work horse actually done that.

The children who have lived in public housing over the years, and who live there now, people who are aspiring to get a house for the first time with the
help of your committee, and the veterans who have given so much to their country are benefiting from what you have done. Long after you are gone, not generally from this place but from this Earth, there will be folk whose lives have grown out of your life. You have made a difference from that respect.

Lou, you are the best example of a Congressman that I have encountered in this body and I hope that in some small way I could be an example for others if you have been to all of us.

Mr. OBEY. Mr. Chairman, I yield 1 minute to the distinguished gentlewoman from Texas (Ms. JACkson-LEE).

Ms. JACkSON-LEE of Texas. Mr. Chairman, as Mr. Stokes well knows, there is not one of us that did not want to come to the floor and share with him his life, his life history and his eloquence.

Mr. Stokes, you were elected to this Congress in 1968, the year of the assassinations of Martin Luther King and Bobby Kennedy. You also rose to the highest heights of arguing in the United States Supreme Court; you eloquently made the argument that just because of the color of your skin, you should not be held along the byways and highways and byways of this Nation without any rhyme or reason. The Supreme Court agreed with you.

I thank you for who you are. You know, I claimed you long ago as a mentor. I was new in Congress in 1969 and you had been an aide to Bobby Kennedy. You also rose to the highest heights of arguing in the United States Supreme Court; you eloquently made the argument that just because of the color of your skin, you should not be held along the byways and highways and byways of this Nation without any rhyme or reason. The Supreme Court agreed with you.

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Different Members leave different imprints for their service. Few Members can match the difference that Lou Stokes has made in this country and in this institution.

First of all, as a colleague, he has always moved among the people, his forthright eloquence, his intelligence, his dedication to public service stand out and he will always be an inspiration to all of us. He has made a great difference to people not just in his district but all around the country when it comes to questions like education on health care and environmental questions. I think that it is important for us to pay tribute to him.

I want to take this moment to thank him for his friendship. He will always serve to me as a model for what a legislator ought to be.

Mr. OBEY. Mr. Chairman, I yield one minute to the gentleman from Wisconsin, Mr. BARRETT.

Mr. BARRETT of Wisconsin. Mr. Chairman, I would like to briefly pay tribute to one of my heroes, too. Mr. STOKES is just a tremendous, tremendous person. Earlier this year I spoke, following MAXINE WATERS and Congressman STOKES, to a group here in the Capitol of the people, following MAXINE WATERS and Lou Stokes, you are the two people in this Capitol that are unique. One could heat this place up faster than anybody and the other could cool this place down faster than anybody. Those are both valuable tools and they are wonderful tools to have.

He is a man I have tremendous respect for, just tremendous respect, because he is a kind person and he treats people with respect. He treats issues with integrity and that to me is the most important thing a person can bring to this Chamber.

So when you go home tonight, Lou, I want you to think about Sally Fields when she told that Oscar and you can say, you do not have to say it here but you can say it there, you can say they really liked me because, Lou, we really like you.

Mr. OBEY. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I would simply say I know that this has taken a long time tonight and I know that it has made some people nervous who want to get on with the business of the House. All I wish to do with all of the matters that come before this House that divide us, I think it is good and crucial that from time to time we have moments of grace like this which make this place in the end a much better place for all of us to work in.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, I rise today to pay tribute to a great friend and a valued colleague. Louis Stokes has been a trailblazer and, indeed, he blazed the trail for me and many others who have struggled against racism, prejudice and economic injustice. Since 1968, Congressman Stokes has dedicated himself to fighting for economic and social justice for all Americans, regardless of race, creed, color or gender. While he has been a steadfast champion for the rights and welfare of his constituents in Cleveland, he has been no less dedicated in his pursuit of equality and fairness for all of America—and the world's—disenfranchised, downtrodden and persecuted people. I looked to the example of Congressman Stokes and the service in Congress he provided during my service in the Texas House and Senate before I came to Congress. I took heart from his determination and perseverance in the face of long odds during my struggles to advocate for the poor and dispossessed. As an African-American, I owe to Congressman Stokes a particular debt of gratitude.

Louis Stokes exemplifies the finest qualities of leadership, dedication to public service and compassion for his fellow men and women. He has served with distinction in the House, including his chairmanship of the VA-HUD Subcommittee on the Appropriations Committee for two years beginning with the 103rd Congress, and two stints as Chairman of the Ethics Committee during his 30 years in the House. Congressman Stokes stands as a living symbol of all of the heroic efforts included in this legislation which seek to provide more Americans with the opportunity to fulfill their dreams.

Representative Stokes' career on the Appropriations Committee and the Subcommittee on the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999, I rise to pay tribute to Representative Louis Stokes for his twenty years of dedicated work on the subcommittee responsible for much of the work on this bill each year. Representative Stokes has always been a stout defender of the progressive and inclusive efforts included in this legislation, which seek to provide more Americans with the opportunity to fulfill their dreams.

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Cox
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Bentsen
Barton
Bartlett
Barrett (WI)
Barr
Barcia
Ballenger
Baker
Bachus
Aderholt
sponded to their names:
was no objection.

To each of my colleagues who have
made. Seldom, seldom could you even
gain that he had any idea of the
impact that he has had upon this body
and upon the country.

So, it is my privilege at this time to
yield to the gentleman from Ohio, Louis Stokes
Mr. STOKES. I want to thank my
distinguished chairman of the sub-
committee, the gentleman from California
(Mr. Lewis) for yielding to me. But
more than that I want to thank
him for providing for me today the
greatest day that I have ever experi-
enced in the House of Representatives.
JERRY, you and I have had a very spec-
ial friendship and a very special rela-
tionship as colleagues. I have enjoyed
working with you. You are someone
for whom I have great respect and admira-
tion not only for your hard and tireless
work efforts in this House but because
you are bright and because you are car-
ing and you are sensitive, you are
trustworthy, and you are loyal.

You have been my friend. My wife
Jay and I had the privilege of enjoying
the friendship of both you and your
lovely and charming wife Arlene, and it is
something that I would cherish for all
of my life.

Along with you, I want to thank the
distinguished ranking member of the
Committee on Appropriations, Dave
Obey, with whom I have served now al-
most 30 years, and on some committe-
es we sat right next to each other for
many, many years, worked together on
many projects.

I have known a lot of people in the
House over 30 years. There is none for
whom I have greater respect and admi-
ration and none whom I consider more of
a legislative giant than the gen-
tleman from Wisconsin.

Dave, I want you to know that I have
enjoyed your friendship. I have appreci-
ed it. I admire you for everything
you stand for, and I appreciate all that
you have represented to me and to
your colleagues in this country. It has
been a great honor serving also with
you.

To BOB LIVINGTON, our “big chair-
man,” as we refer to on the Committee
on Appropriations, I want you to know,
Mr. Chairman, that you and I, too,
have an excellent working relation-
ship over the years. I served under
6 chairmen of the Committee on Approp-
riations over the 30 years. Twenty-
seven years I have served on that com-
mittee, and not only have I had an
excellent working relationship
with the gentleman who has
been chairman of the Committee
for so many years, but also
with you, Mr. STOKES. I want to thank
you for the privilege of serving with
you.

To each of my colleagues who have
spoken here this afternoon in what has been
to me the greatest experience of
my career, in these 30 years that I have
served here, I have never seen the type
of tribute that was accorded me this
time.
I have been touched and moved in a way that I would never forget. Your words today will linger on in my heart forever for the rest of my life. It will help embellish the enriching experience I have had of serving here with those of you whom I consider to be the finest people in the world.

I have oftentimes, sitting on the floor or standing in this well, pinched myself and asked if I was really here on the floor of the House of Representatives. I was not destined to be here. I was not one who was destined to ever serve in the House of Representatives.

As you have heard this afternoon from many of the speakers, I was born in Cleveland, Ohio, born in a family where a young woman and a young man fell in love and got married and had two children. Then, when I was 3 years of age, my brother was a year old, our father died.

So my mother was left a young widow who had only an 8th grade education, who had come from the South and was looking for a little better life for herself other than working in the cotton fields in Georgia. And here was a lady with only an 8th grade education with two young boys, one 3 and one a year old, who wanted, again, to go to school.

So she did the best thing she could do. She became a domestic worker. She went out in the heights in the suburban areas around Cleveland, in the areas that I now represent in the United States Congress, in the rich, wealthy, white people's homes, where she scrubbed their floors, served their dinners, took care of their children, washed their clothes, cleaned their windows for $8 a day and bus fare. And she found that she could not raise those two boys on $8 a day and bus fare, so she also went on welfare.

But during that period of time, she used to speak to both Carl and I and tell us to “grow up to be somebody.” She used to tell us to “get an education.” Her greatest dream was that those two boys would some day get a high school diploma. She knew that she could not send us to college. But in her dream, she wanted to see us both get a high school diploma. Because she had great faith in this country and she believed if those two black boys in Cleveland could just get a high school diploma that they could be somebody.

And she used to always say to us, “get something in your head so you do not have to work with your hands like I have worked with my hands all of my life.” And I never really understood what my mother was talking about until one night she was very ill and I heard her in the bedroom moaning with pain and I went into the room and sat down, and she was in such great pain that I reached out and grabbed both of her hands to try to give her some solace, some comfort.

When I felt those hard, calloused hands from scrubbing people’s floors, I began for the first time to understand what she meant when she said, “get something in your head so you don’t have to work with your hands like I have worked with my hands all of my life.”

I went on to get my high school diploma and was drafted into service in World War II. My brother Carl dropped out of school at 16. Carl quit school, went out to Republic Steel to get a job, sweeping floors. Shortly after I was drafted, he too was drafted into the service.

When I came out of service, I realized that I needed an education, I wanted an education. Fortunately some people in the United States Congress whom I never saw, whom I never knew, had the vision to provide something called the GI Bill of Rights. And so I took advantage of that.

I went home one night and told my mother that I was going to go to college and she said, “Well, what would you do?” And I said, “I’ll get $95 a month.” And she said, “No. I want you to go to school full-time.” She said, “You can’t do that. You have to go to work.” She said, “I’ve spent all these years just trying to get you and your brother a high school diploma. I need you now to help me.”

She was right. And so I went and got a job. And I went to college nights. I worked a job all day and went to college nights. I went on from there to law school, went to law school, worked a job during the day, went to law school five nights a week, sat in law class from 6 to 10 every night and studied all weekends in the library.

Carl when he came out at 21 years of age went back to East Tech High School because he saw I was going on to college. He went back to high school at 21, got his diploma, followed me then into college. Much of the rest is history. He went on to become the first black Democrat to ever be elected to the Ohio legislature, then became the first black mayor of any major American city. He served two terms. He went on to New York, he became an award-winning Emmy TV anchorman. He came back to Cleveland, went back in the practice of law, got elected to a judgeship, and then President Clinton appointed him as the United States ambassador to the Seychelles.

I on the other hand spent 14 years practicing law as a criminal trial lawyer. I had the opportunity to participate in three cases in the United States Supreme Court and, as you have heard on the floor today, argued Terry v. Ohio which has become a landmark case in criminal constitutional law.

In this body, I was given some very historic assignments: The privilege of chairing the Ethics Committee twice where we handled Abscam cases. We handled the sex and drug cases involving Members of Congress and the pages. The last case I argued, in 1990, was that of Geraldine Ferraro when she was running for the vice presidency of the United States. I was given the privilege of chairing the Assassinations Committee investigating the assassinations of two of the greatest men, two of the greatest Americans who ever lived, President John F. Kennedy and Dr. Martin Luther King. I was given the privilege of being the first African-American to chair the Intelligence Committee, I was given the privilege of being the first African-American that served on the Iran-Contra committee. I was a part of the team sent to Grenada to investigate the invasion by the United States of that tiny island Grenada.

Today as I say farewell to the House, having had the privilege of working on my last VA-HUD bill, I can only say to all of you that I am proud that I am an American, that I have lived in this great country. No matter what we have, this is the greatest country in the world. The story I have recited to you today of the Stokes brothers could only happen in America. Only in America, Mr. Chairman. Only in America.

To the ladies of the House, I, the Chairwoman, I proudly yield back the balance of my time that I have used.

The CHAIRMAN. The bill is open to amendment from page 52, line 3 to page 65, line 16.

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

As many Members know, I have submitted an amendment that would amend the language in the bill submitted by the gentleman from Michigan (Mr. Knollenberg). The gentleman from Michigan’s language makes it clear that no funds appropriated to the Environmental Protection Agency could be used in the implementation of, or contemplation of implementation of, the Kyoto protocol.

In discussion with the advocates for this language on both sides of the aisle, the gentleman from New York (Mr. Boehlert), the gentleman from California (Mr. Waxman) and others, I have decided, Mr. Chairman, not to offer my amendment, but I would like to take this time to address the House as to why it is that I thought it was important to offer this amendment in the first place.

The issue of the Environmental Protection Agency’s activities with regard to greenhouse gases has created suspicion on both sides of the argument. Suspicion on the part of industry that the Environmental Protection Agency would take a backdoor approach to implementing Kyoto. That is a legitimate concern. In fact, the United States Congress, namely, the Senate, has not given the authority to the Environmental Protection Agency to implement Kyoto and it should not do that without the proper authorization. On the other hand, Mr. Chairman, the environmental advocates in this country...
are concerned and have a deep suspicion on the other side, and that is that the Knollenberg language would not be used simply to prevent EPA from implementing Kyoto but in fact would stand in the way of the Environmental Protection Agency's legitimate role in studying greenhouse gas and modeling CO₂ throughout the atmosphere and implementing voluntary reductions and promoting technology that would reduce carbon dioxide and in fact regulating other pollutants such as mercury in a way that has the least impact on the emissions of carbon dioxide.

Why is this important, Mr. Chairman? Why is it so important that we ensure that the Environmental Protection Agency is not stripped of these powers? Mr. Chairman, regardless of where one stands on the issues of climate change, there are certain facts that are absolutely beyond scientific dispute: the fact that we are carbon-loading the atmosphere. We have been carbon-loading the atmosphere since the dawn of the Industrial Age. The percentage of carbon dioxide in our atmosphere is now 20 percent over what it was in the Industrial Age before it began. The biosphere in fact consumes carbon dioxide and turns it into oxygen. Some of my colleagues and others have said, “Well, that is the harmless and natural state of the planet.” Well, it is except for the fact that the human race in burning fossil fuels, coal, oil, gas, wood at an increasing and dizzying pace over the last 100 years has increased the carbon dioxide emissions into the atmosphere far more than they can be consumed by the biosphere, and the trends are known that this will get worse until we humans learn to build societies that can meet the needs of our people without unbalancing that thin and precious and delicate layer of the atmosphere that allows us to live in this band of temperatures in which humans and other life on this planet can live.

Mr. Chairman, we have to lead the world in research on global change, climate change. We have to lead the world in research on greenhouse gases. We cannot shrink from that. We cannot be in denial regardless of the interests that would have us do that. Some of my colleagues in the earlier debate this morning talked as if it were clear that the solution to preventing global warming is in burning coal. We cannot prove that. Mr. Chairman, we do not know that. What we do know is that this planet and its life is far, far too precious for us to be cavalier about this issue. Our children certainly will live in a world that the policies we adopt in our generation will live in our time with regard to greenhouse gases.

Mr. Chairman, I will not offer this amendment this evening, but those of us who care passionately about this issue and the effects of and the Knollenberg language. If the Knollenberg language does what its advocates purport it to do, and, that is, to simply prevent the implementation of Kyoto in ways that are unauthorized, then that will be fine and we will move on from there. But if this language, Mr. Chairman, is used to subvert EPA’s legitimate role in studying carbon dioxide and other greenhouse gases, then we will be back here next year and we will very much withdraw the amendments because we stand firm on the proposition that the Environmental Protection Agency must lead this Nation in the study of this phenomenon.

The Chairman. The time of the gentleman from Pennsylvania (Mr. Waxman) has expired. (On request of Mr. Waxman, and by unanimous consent, Mr. Greenwood was allowed to proceed for 5 additional minutes.)

Mr. Greenwood. Mr. Chairman, I am happy to yield to my colleague, the gentleman from New York (Mr. Boehlert).

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

Mr. Boehlert. Mr. Chairman, I want to identify with the outstanding statement of my colleague from Pennsylvania who has been a leader in this area.

Mr. Chairman, I rise in strong support of the intent of the Greenwood amendment. While my colleague has not formally offer the amendment, it is important to understand precisely what is at stake in this critical debate. This debate is not about the Kyoto Protocol. The Kyoto Protocol could not—and should not—be ratified in its current form, and no one should have to be as if the treaty has been ratified. On that there is total agreement.

The problem is this: the fact that Kyoto is not acceptable right now doesn’t mean that climate change is not a potential threat. It doesn’t mean that we know everything we need to know to proceed to Kyoto without any more informed debate and sensible information gathering related to climate change. The report language accompanying the provision makes this intent clear by explicitly directing EPA to stop discussing “policy underlying Kyoto.”

What kinds of positive actions would the Knollenberg language stop? It would stop efforts to find out more about who is emitting greenhouse gases and about how those might be controlled. It would stop intelligent planning under which EPA would formally not controlling other pollutants did not make greenhouse gas emissions worse. It would stop efforts to develop programs to encourage industry to reduce emissions voluntarily. It would stop planning the other body has requested to help determine the costs of complying with Kyoto. I could go on and on.

Does it make sense to stop such defensible activities? What are the Knollenberg supporters so afraid of? It seems that they believe that the information about climate change will weaken their case.

And remember, it’s not as if Congress is powerless to influence policy absent the Knollenberg language. If the Administration did something foolish, such as try to declare carbon dioxide a criteria pollutant under the Clean Air Act, Congress means to block such action without the Knollenberg rider.

So it comes down to this: regardless of how you feel about Kyoto, regardless of whether you can imagine some policy you might want to block, you need to support for Greenwood—that is, unless you disagree with the vast majority of scientists and believe that there is no chance at all that climate change is a threat.

Support for Greenwood is not necessarily support for Kyoto. Greenwood does not give the Administration carte blanche. Greenwood wishes to allow open, informed debate on climate change to continue. It represents the sensible middle ground. It has earned my colleagues’ support.

Mr. Greenwood. Mr. Chairman, I yield to the gentleman from California (Mr. Waxman) if he wishes to comment.

Mr. Waxman. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend him on his statement. I think the gentleman’s amendment is one that should be passed by the House, but I respect the fact that we are going to let the process move forward on this legislation.

I think 50 years from now, people would look back at the appropriations bill with dismay if it were to stay in its present form, because, as I read the bill this morning out of committee, the Environmental Protection Agency and the Council on Environmental Quality would be restricted from educating and conducting outreach and holding informational seminars on policies underlying the protocol relating to the Kyoto Conference. And not only that, it would be prevented from thinking through and developing proposals to deal with the global climate questions.

The amendment we just adopted a while ago offered by the gentleman from Wisconsin (Mr. Dey) would have struck, did in fact strike the most egregious parts of the committee’s recommendation to us. I would hope that, as this bill moves forward, there will be other approaches that will assure those who are anxious about this matter that the treaty, if there is one, will not be implemented until it is ratified. We do not implement laws that have not been passed, and we do not allow executive branch agencies to adopt regulations to enforce treaties that have not been ratified.

I think it is a mistaken notion for fear that that treaty would be implemented in any way to stop EPA and
the CEO from going forward and thinking about strategies and developing plans.

So I want to identify myself with your comments and to express the fact that we made a step in the right direction with the Obey amendment. I think we need to go much further on this issue when the bill moves into conference.

As I understand it, the Senate has a different approach. Even Senator Byrd has a different approach than what is in this legislation. I would think it would be doing a disservice to the American people if we stopped everybody from looking at this problem because the problem is not going to go away.

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

Mr. Chairman, I would like to engage the chairman of the subcommittee in a colloquy, but first I would like to thank the chairman for all of his hard work on a complicated and important appropriations bill which funds the Department of Veterans, Housing and Urban Development, and independent agencies. I would also like to commend his staff for diligently working with me on an important issue concerning my district.

Mr. Chairman, I understand that the report language to H.R. 4194 indicates that the EPA should take no action with respect to the Pine River in St. Louis, Michigan, in my district. St. Louis badly needs EPA action, which includes dredging, because the Pine River is an important river.

It is the gentleman's understanding that the language in the report is not intended to prevent dredging in the case of the Pine River project and that he will work to address this issue further in conference?

Mr. Chairman, I understand the language in the report to be a regulatory determination for mercury emissions from utilities, utilizing dredging as a remediation tool, implementation of the Food Quality Protection Act, implementation of the Regional Haze Program; or cleanup requirements for facilities licensed by the Nuclear Regulatory Commission, where such activities are authorized by law.

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

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

There was no objection.

Mr. WAXMAN. Mr. Chairman, since the beginning of 1995, the House has produced a steady stream of assaults on the environment. Bills have been introduced to repeal the Clean Air Act, simply repeal it. Riders have been snuck in to block popular legislation, particularly appropriations bills, to cripple protection of endangered species, exempt oil refineries from air pollution laws, and block the Environmental Protection Agency from regulating arsenic levels in our drinking water.

Earlier this year, I had thought that the House would finally halt its war on the environment. I had hoped that the sneak attacks on the environment would cease, and I would hope that we would reject the extremism that is so out of touch with American values.

Unfortunately, it seems that, once again, our environment is being attacked. As in years passed, the VA-HUD appropriations bill contains antienvironmental riders in both the bill and the report accompanying this legislation which would hinder our efforts to protect the environment under existing successful programs.

Specifically, the report language that would prevent the cleanup of PCB-contaminated sediments, stall implementation of our pesticide safety laws, prevent adequate cleanup of old nuclear facilities, interfere with efforts to control air pollution in our national parks, and block controls of dangerous mercury air pollution;

These riders do not belong in this legislation. This is a bill to fund the EPA and other agencies. They do not belong in this bill, and they are all an affront to every person who cares about the quality of the air we breathe and the water we drink.

My amendment would prevent a rollback of our important and popular environmental programs. It would strip out the environmental riders attached to this legislation. In effect, it would halt this attack on our environment.

One of the provisions of the bill and the report accompanying the bill prevents EPA from regulating emissions of mercury pollution. This provision is extremely damaging, not only to our environment, but to people's health.

Mercury is a known toxic pollutant of special concern to pregnant women. Important studies have been released this year on the massive mercury air pollution caused by emissions from power plants. Yet, despite these substantial threats for mercury, the report language would block any regulatory determinations regarding mercury air emissions for years.

The report accompanying this bill also contains language which would prevent the cleanup of PCB-contaminated sediments. PCBs are known to cause cancer and contaminate large areas of the Hudson and Housatonic Rivers of the Northeast and a large area off the coast of California.

Many experts have called for removing this contamination through dredging, but the report language would prevent EPA from requiring any dredging, leaving the local communities contaminated.

There is also language that would make it hard for EPA to ensure that pesticides do not exceed safe levels in our food. In 1996, just 2 years ago, Congress unanimously passed legislation to make sure that all food is safe from toxins that might harm infants and children.

We must allow this law to be implemented, not impede its implementation as the report would do. The goal of my amendment is simple. It would remove those extreme restrictions on the administration's ability to deal with global warming, but in deference to my colleagues, the global warming riders are not being addressed in this amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. WAXMAN) has expired.

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

Mr. WAXMAN. Mr. Chairman, the Knollenberg provisions are not affected in any way by this amendment. The riders my amendment addresses are contained in the report on this bill. As I stated yesterday because those report language, they are not binding on the agencies, but that is only technical.

It is, however, important to realize that they are a message to the agencies to not go forward with enforcing existing laws. That is why it is important to eliminate them in order to clarify that they should not affect the agencies in any way.

Mr. Chairman, Congress should be working to solve our environmental problems, not working so secretly to include antienvironmental provisions in appropriations bills at the request of many big polluters. Let us not roll
back our environmental laws with these antienvironmental riders. I urge all Members to support this amendment and give us a clean VA-HUD appropriations bill.

Mr. LEWIS of California. Mr. Chairman, I yield the floor.

Mr. Chairman, very reluctantly I rise in opposition to this amendment by my colleague the gentleman from California (Mr. WAXMAN). As many of you know, HENRY WAXMAN and I have worked together on a number of issues in the past that relate to the environment, and we have done things like sponsoring alternative fuels for clean air purposes. The gentleman knows of my work in connection with the clean air amendments in California. But having said that, let me say that I believe the committee language merely directs EPA to get itself back on a firm statutory footing.

To label the committee's direction to the EPA, direction that is contained solely within the report accompanying the bill, as somehow being a rider is about as far a stretch of imagination that I can fathom. These folks are really scraping the bottom of the barrel if their primary objections would somehow raise report language to the level of statutory law. But let me take just a few moments specifically address some of the concerns raised in the WAXMAN amendment. With respect to mercury, the report committee directs the agency to, first, complete an ongoing Federal-State study on mercury transport in Lake Superior; secondly, complete another ongoing study on fish consumption and mercury ingestion; and, thirdly, enter into a final study agreement with the National Academy of Sciences in order to get recommendations on the appropriate level of a mercury exposure reference dose.

Mr. Chairman, these are not new issues. The committee is merely attempting to push the EPA to finish its research before issuing regulations.

With respect to utilizing dredging as a remediation tool for contaminated sediments, the committee last year asked EPA to contract with the NAS to conduct a thorough study of this method with the goal of requesting to be completed by April of 1999.

In part, this study was requested because EPA itself stated in a 1996 report that the preferred means of controlling sediment contamination risk is through national recovery. Subsequently, the committee has become aware of what may be a reversal of this policy. It occurred to us that maybe we should let the NAS report say how much light on this matter before we allow EPA to move forward with more than 300 billion cubic yards of contaminated sediments.

Regarding directions of the committee relative to the Food Quality Protection Act and the Regional Haze Program, the language merely suggests that the agency should follow both its spirit and the letter of the law in implementing these programs. The Regional Haze Program is a case in point.

The Clean Air Act sets up a regime for air quality that is now being monitored by transport commissions in order to research and monitor visibility impairment. The law also requires EPA to report to Congress on visibility improvements achieved through implementation of other sections of the Clean Air Act.

These and other provisions of the law have been ignored by the agency, and the committee language merely directs the EPA to get itself back on a firm statutory footing.

Finally, the committee's direction with respect to cleanup requirements for facilities licensed by the Nuclear Regulatory Commission would do nothing more than tell EPA to maintain the status quo with respect to regulatory oversight of nuclear facility clean up.

The Congress has given the authority to the NRC, not to the EPA. Not surprisingly, the EPA is trying to further enlarge its domain by claiming jurisdiction where they do not now have any. If the Congress in its wisdom wishes to give such authority to EPA, be it. In the meantime, however, I think this body should not allow the WAXMAN amendment to circumvent the law and permit his favorite government agency to grow even larger.

Mr. Chairman, these and other directions of the committee as contained in the report accompanying H.R. 4194 are intended to put the EPA back on a path of following the law. None of these directions reinterpret the law in any way. None of these directions put a political or partisan spin on what EPA is expected to do. None of these directions reinterpret the law in any way. None of these directions put a political or partisan spin on what EPA is expected to do. None of these directions put a political or partisan spin on what EPA is expected to do.

Mr. Chairman, I cannot understand why anybody in this body would want the EPA to ignore the laws that Congress has passed. For the life of me, I cannot understand why anyone would want this agency to enlarge its domain through its interpretation of what the law means. Yet that is exactly what my colleague from California by way of this amendment would allow to happen.

I strongly urge that the gentleman withdraw his amendment, and, if not, that it be soundly defeated.

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

Mr. Chairman, first let me point out that one of the items mentioned here, the regional haze regulations, are in fact one of the areas where we are concerned that EPA may be preceding to implement a global warming policy without the Kyoto Protocol being ratified by the Senate. We have not definitively heard back from the agency on that because they have not yet complied with our request for information on the oversight hearing, but it is an area of great concern to us.

Let me also say, harking back to the amendment by the gentleman from Pennsylvania (Mr. GREENWOOD), which he withdrew, I appreciate his doing the sensible thing in not proceeding to be put into the Record following the discussion of that subject, including a list of all of the countries and whether or not they are covered by the treaty and the state-by-state breakthrough of the economic costs.

Mr. Chairman, I would at this point yield to one of my colleagues, the gentleman from Pennsylvania (Mr. PETERSON) the balance of my time for his remarks on that subject.

Mr. PETERSON of Pennsylvania. Mr. Chairman, will the gentleman yield?

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

Mr. PETERSON of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, it has been interesting tonight as we have heard the discussion about our issues dealing with EPA, an agency that I find sometimes more troubling than the IRS. They have one of the most important jobs in this country. But if you ask your local community, ask your state agencies, you ask anyone who deals with them, they are one of the most difficult.

One of the issues that was shared with me just a short time ago was that the Knollenberg language was going to prevent the EPA from doing their job. This administration asked in this year's budget for $6.3 billion on the Kyoto treaty and global warming. Now, they claim they do not want to implement, but many Members have said they are going to implement and they have done many things that would start that process.

$6.3 billion is almost equal to the EPA budget. I guess that is beyond my imagination, that a government would ask for $6.3 billion to market a theory, "global warming."

When this issue started, I asked one of the top climatologists in America, who was having lunch with me downstairs, if there was global warming, because I wanted his opinion. Without any doubt he just looked at me and said, "There is no evidence, and we have been in this business all my life."

I want to share with you that climate researchers do not agree whether the earth will become warmer during the coming century. Seventeen thousand scientists have recently signed a petition stating that man-caused climate change does not exist, 17,000.

The petition states, in part, "We urge the United States Government to reject the global warming agreement and other similar proposals. The proposed limits on greenhouse gases would harm the environment, hinder the advance of science and technology, and damage the health and welfare of mankind.

"There is no convincing scientific evidence that human release of greenhouse gases is causing or will cause..."
catastrophic heating of the Earth's climate. Moreover, there is substantial scientific evidence that increases in atmospheric carbon dioxide produces some beneficial effects upon the natural plant and animal environment of the earth.

One of the reasons for such certainty and optimism about the future of these 17,000 scientists is that both written and oral history informs us that between 1000 AD and 1300 AD, the Earth warmed by some 4 to 7 degrees, 4 to 7 degrees Fahrenheit, almost exactly what the current computer models now predict for the coming century.

Did this good produce the catastrophe being sold to us by alarmists? It did not. The warming created one of the most favorable periods in human history. Crops were plentiful, death rates diminished, and trade and industry expanded, while art and architecture flourished. There was less hunger, as food production surged because winters were milder and growing seasons longer. Southern England developed the wool industry, and Viking settlers pastured cattle in Greenland on what is today frozen tundra. Soon after 1400, however, the good weather ended and the world dropped into what is called the Little Ice Age.

Recently Dr. Sallie Baliunas, an astrophysicist with Harvard-Smithsonian Center for Astrophysics and one of the Nation's leading experts on global climate change, believes we may be nearing the end of a solar warming cycle, and that there is a strong possibility that the Earth will start cooling off in the early part of the 21st Century.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. McIntosh) has expired.

Mr. McIntosh. Mr. Chairman, I ask unanimous consent to proceed for two additional minutes.

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

Mr. Waxman. Mr. Chairman, reserving the right to object, I do so for the purpose of informing the gentleman that this amendment contains nothing on global warming. That was discussed as a possibility in this amendment, but, as I announced in my opening remarks, we withdrew that particular section from the amendment. So we are not dealing with the global warming question.

Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

Mr. McIntosh. I yield to the gentleman from Pennsylvania (Mr. Petersen).

Mr. Petersen of Pennsylvania. Mr. Chairman, it says we may be nearing the end of a global solar warming cycle, and that there is a strong possibility that the Earth will start cooling off in the early part of the 21st Century.

Still none of the global warming computer models, the foundations for nearly all the claims that warming is the result of man-made greenhouse gasses, account for solar variability, and none adequately account for the interaction between the oceans and the atmosphere, or the addition of a large portion of the very warm South Pacific to the worldwide grid of temperature reporting stations in the past half century. Also, satellites and weather balloons that have been tracking temperatures for the last 20 years show a slight cooling.

I would like to conclude my comments by saying we have 16 agencies being funded by the EPA to propose and sell the global warming advocacy. The Greenwood amendment, which was before us a little while ago, in my view, I was very pleased that he withdrew that, because it really cleverly destroyed the well-crafted Knollenberg language that was so vital.

The interesting thing I would like to say, in conclusion, the Kyoto treaty is so flawed, if all of the countries that have agreed to bring it to their governments for approval follow it to the hilt, the developing countries, the 132 which are the growth areas of the world will more than make up for the savings. There will be no change.

It seems pretty flawed for Americans to take it in the neck and let the developing world steal our jobs. There are many who feel that as many as 1 million American jobs will move to Third World countries, where there will be no controls, there will be no penalty paid, American workers will risk it in the name of American prosperity.

It is an ill-conceived treaty. I think it is time to send someone to the next treaty, besides Al Gore, to negotiate a treaty that is a fair to American workers.

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

Mr. Chairman, I think that my colleague, Mr. Petersen from Pennsylvania who preceded me, points out by example the reason we should not have the type of language in this bill. In fact, I know it is a time-honored tradition of the Committee on Appropriations to strike any amendment that goes against the specifics of many laws, but the fact is, when I voted for these laws, that is what I meant. I meant that I wanted our Superfund dollars used to clean up the problems.

This bill prevents the use of the brownfields dollars to clean up. I wanted the mercury out of our air. That is what I wanted the EPA to do. This particular provision stops the EPA from implementing the Clean Air Act, the growth areas of the atmosphere and of necessary standards for utilities. I wanted the PCBs that are lining our lakes and waters and riverways cleaned up so that it was not in our waters and riverways. This particular provision in the bill before this Committee preempts the EPA and says you cannot do that particular dredging.

When I voted for the Food Quality Protection Act, I wanted the pesticides out of our food, and not just the organization of the other Member. And I do not want some staff member or other groups that are there making a contrary decision in appropriations report language, I want the EPA, the scientists and the other professionals, to set those pesticide standards so that I am not eating such pesticides, and so do the people I represent.

When we voted for the Clean Air Act, we wanted to in fact be able to see the canyon and see the mountains that are on our American landscape; not putting this off and postponing it and frustrating the implementation of these laws.

Finally, of course, we do want our radioactive waste materials cleaned up. For my part, I think the Nuclear Regulatory Commission needs a challenge to the type of job they have done in the past, and I think the EPA is pursuing this. I do not want to strip them of some responsibility with regards to radioactive wastes.

So I hope my colleagues will look at this, and recognize the importance of letting the administrators and others that are supposed to administer and implement our laws do their job, and not be frustrated and hamstrung and limited by these inappropriate type of guessing that I hear here, and often I think with the type of scientific analysis I heard here on greenhouse gasses preceding me.

That is not the type of effort, that type of guessing, that type of unusual theories that seem to abound, that I think is the best way to administer our laws. I want the EPA and the administration, and they are held accountable, incidentally, by courts and by results and regulations and open hearings. Once that process gets done, which is sometimes very, very lengthy, takes a long time, I do not want the Committee on Appropriations coming back and pulling the rug out from under them and then frustrating the implementation of the laws.

That is what is happening in this instance, and that is why we need to vote up the Waxman amendment or defeat this bill.

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

Mr. Chairman, I rise in very, very strong support of the Waxman amendment. I do so because passage of this amendment is critical in the Hudson River, as well as the Housatonic River in Massachusetts and Connecticut. Thanks to 30 years of PCB discharges, the upper Hudson River has the distinction of being one of the Nation's large Superfund sites. Not surprisingly, the upper Hudson River has also been designated as one of the most endangered rivers in the United States by
PCB contamination in the Hudson has taken a huge toll on the River’s economic recreational and environmental resources. Fish caught throughout 200 miles of the river are contaminated at unsafe levels. As a result, the river’s commercial fishery industry, valued at more than $40 million annually in 1976, has been almost completely closed down.

In addition, PCBs from the upper Hudson are responsible for about half of the sediment PCB contamination in New York Harbor. This contamination greatly increases the cost of dredging the harbor, which is so critical to the economic vitality of the New York metropolitan region.

Most troubling is the threat to public health posed by PCBs. These chemicals have long been regulated as human carcinogens, and scientific evidence continues to mount about PCBs' impact on disease resistance, reproduction and cognitive development. For example, studies done in the Great Lakes region have shown startling effects on the birth weights, cognitive abilities and emotional stability of children exposed in utero.

The EPA has spent years examining the extent of PCB contamination in order to develop an appropriate cleanup plan. This process is already years behind schedule, and that is bad enough. We certainly do not need more delay, but that is just what this bill will do, and that is why I urge support of the Waxman amendment, so that the long awaited cleanup of the Hudson can move forward.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentlewoman’s yielding. The question really is by way of a point of order. The gentlewoman knows that there will be huge amounts of material if dredging is the way we solve this problem. As of this moment I do not believe EPA can tell us what they are going to do with that material. Maybe we are going to create another Superfund site, and so we can have another area of activity to broaden their responsibilities. But, indeed, all we are doing is by way of report language, no weight of law, per se, nudging this agency to get back on track.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. LOWEY) has expired.

Mrs. LOWEY. Mr. Chairman, I would just like to say to my distinguished chairman that we understand the complexity of the Hudson. It has already been delayed an additional 18 months after many years, but it is my understanding from Carol Browner that there are areas, such as the Housatonic, which could move forward, could be an important demonstration, so we can make an appropriate decision as to what to do with the Hudson, understanding the complexities, and this report language would just delay further.

Mr. LEWIS of California. Mr. Chairman, if the gentlewoman would yield further, in the Housatonic, I believe they are planning to dredge 12 miles of the river. I have no idea what they are going to do with that dredging material. But, in the meantime, it is amazing to me that my colleague from California would raise the statutory level, when the report language, simply trying to urge this agency to get back on track and follow the laws we have outlined.

Mrs. LOWEY. Mr. Chairman, will the gentlewoman yield?

Mr. LEWIS of California. Mr. Chairman, Ms. Browner has outlined.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentlewoman’s yielding. The question really is by way of a point of order. The gentlewoman knows that there will be huge amounts of material if dredging is the way we solve this problem. As of this moment I do not believe EPA can tell us what they are going to do with that material. Maybe we are going to create another Superfund site, and so we can have another area of activity to broaden their responsibilities. But, indeed, all we are doing is by way of report language, no weight of law, per se, nudging this agency to get back on track.

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Mrs. LOWEY. Mr. Chairman, I would just like to say to my distinguished chairman that we understand the complexity of the Hudson. It has already been delayed an additional 18 months after many years, but it is my understanding from Carol Browner that there are areas, such as the Housatonic, which could move forward, could be an important demonstration, so we can make an appropriate decision as to what to do with the Hudson, understanding the complexities, and this report language would just delay further.

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Mrs. LOWEY. Mr. Chairman, will the gentlewoman yield?
not think it is binding, but they feel a limitation when the committee that is appropriating their money to stay in existence tells them not to do anything until you get another study, and this additional study would keep them from doing this. I make putting a cap on settling of PCBs.

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

I oppose the Waxman amendment. Mr. Chairman, I just wanted to take a couple of seconds, as I was unable to be here when this House paid tribute to the gentleman from Ohio (Mr. STOKES).

This last month I heard four of the greatest speeches of my life: The speech of the gentlewoman from Connecticut (Mrs. JOHNSON); the gentleman from Indiana (Mr. HAMILTON); the gentleman from Illinois (Mr. HYDE) today; and certainly the gentleman from Ohio (Mr. STOKES).

Cleveland would not have transformed itself into the great city it is without Mr. STOKES, who never got the credit for that politically. Without Lou STOKES, Cleveland would not be the city it is.

Mr. Chairman, we will be through our committee finding a building to name to pay tribute to our great distinguished leader from Ohio, and I would ask all of my colleagues to cosponsor that when the building is selected.

Today I heard one of the finest speeches I have ever heard from the gentleman from Ohio (Mr. STOKES), and we are very proud of him.

With that, I oppose the Waxman amendment. I think the Environmental Protection Agency has got into a little too much all over our country, and I think there is a balance between jobs and protection, and sometimes we have been a little zealous.

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

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

Mr. MILLER of California. Mr. Chairman, I rise in very strong support of the Waxman amendment. This is the amendment that would allow the agencies covered by this bill to continue to carry out the laws of the land, as is their constitutional responsibility.

What we see in this legislation, whether it is a relative language or whether it is report language, is we see a continuation of an assault by the Republican Party of the environmental laws of this country, the very basic, basic fundamental laws of this country, clean air and clean water.

They tried it once in a frontal assault in 1995. They were turned back by the minority in the Congress, and they were turned back by the American public. Since that time they have been having a day in court. They have recognized the African elephant, they have tried to recognize the year of the Ocean, and they have had Tropical Rain Forest Week, all of which was to suggest that they were environmentalists.

They have issued instructions to the Republican majority to plant trees, invite the press, try to show up at environmental events, to give themselves a ‘green’ look. But when it comes to the hard ball legislation, they are right back at it.

In this bill, what they seek to do is to keep the Environmental Protection Agency of the United States of America from doing its job. What is its job? It is to protect the American public from the pollutants who would pollute our air as it moves across all jurisdictions. It is a national problem. Emissions in one area cause cancer and in another area cause asthma and in another area cause children to have serious health disruptions.

That is what its job is, is to protect Americans. It is the Environmental Protection Agency. It is to make sure that in fact Americans have the ability to have a quality of life that they think that they are entitled to. Maybe the Republicans do not support the Environmental Protection Agency, but over 80 percent of the American public supports the Environmental Protection Agency, because they know that it is all that stands between them and the corporate greed of the polluters, the same polluters who have polluted our streams and polluted our water, the huge corporate farms that pollute the waters of the central valley or the waters of the Midwest now as they run huge hog operations, the same polluters who dump into the Chesapeake Bay. They were not turned back by voluntary action.

San Francisco Bay was cleaned up and is being cleaned up because of the EPA. The Great Lakes are being cleaned up because of the EPA. The air today is cleaner in California than it was 20 years ago because of the EPA.

Now they want to strip that. Why? Because we have a very effective and tough administrator. They have dragged her up here time and again in front of numerous committees to beat up on her, and most of them do not have any comprehension of the subject matter to ask a question. But they are going to continue to do it. It is a little disingenuous, unless one just showed up in Congress in the last week or two to say, well, this is just report language.

No, this is not just report language, this is a means by which, in a few months from now, if EPA does not do what they want to do, they will drag them up in front of the committees; they will not carry the will of the Congress; they will beat up on the administrator; they will beat up on the regional people; they will tell them they are exceeding their authority. Why? Because they are trying to get to the Election Day, when they think they can take over the presidency and get rid of EPA. So they want to delay all of these projects, the cleanup of the Hudson River, the brownfields, the cleanup of the Superfund, the mercury emission standards, and all of the rest of it. They are trying to delay that. Why? Because their corporate clients want them to delay that, because they think they will get a better shake after the next presidential election.

This is fundamental politics. This is about our environment. This is about whether our children have a safe home, a safe environment and a safe school, because nobody volunteered to clean it up. They had to be taken to court and they had to have regulations issued, and that has been the 30-year history of this agency. It is what has made America better, it is what has made our schools safe, it is what has given our children the chance to breathe clean air, to reclaim the rivers that when I came to Congress were on fire, rivers we could not touch. When I came to Congress, they told us, "Don't touch the Potomac River." Today people water ski and they have crew races. That is because of the EPA.

Now, the oil companies do not like it, and the chemical companies do not like it, and the farmers do not like it, and the big corporations do not like it. Who gives a damn? The American people like it. The American people like it, because they can see the tangible benefits.

So let us not pretend that this amendment somehow is only report language, that this is just an innocent effort.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER of California) has expired.

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

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would caution the Member against the use of profanity.

Mr. MILLER of California. I thank the Chairman.

Mr. Chairman, this is not an innocent effort. This is going around through the back door, because politically they are afraid to go through the front door because they were turned back by the American people. When the American people understood what the Republicans meant by regulatory reform, they overwhelmingly rejected it and it was abandoned.

The American people know a good deal when they see it, and the Environmental Protection Agency is a very, very good deal for the American public.
Mr. CALVERT. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. CALVERT. Mr. Chairman, I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman from California (Mr. CALVERT) yielding to me. I asked him to yield to respond in part to points made by the gentleman from California (Mr. MILLER).

Mr. Chairman, I must say that my colleague knows very well of my involvement, my personal involvement, in environmental matters over the years, and we both have been involved in public affairs. I wrote the law that created the toughest air quality management district in the country that others are trying to replicate—the South Coast Air Quality Management District. To suggest that we are not concerned about air and about these other matters, to say the least, extremism.

I further object to the gentleman from California suggesting that we would override report language items in order to bring people before our committee and beat them over the head or otherwise. I do not know how the gentleman ran his committee when he was Chair, but we do not bring people in for this purpose.

We are in the business of responsibly developing public policy direction here, and to have that kind of frontal attack is not helpful, acceptable, or appreciate this Member.

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

Mr. Chairman, I rise in strong support of the Waxman amendment and I thank the gentleman from California (Mr. WAXMAN) for offering this amendment and allowing me to speak on this amendment and doing what he has done on his committee, to protect our environment.

This amendment would eliminate controversial anti-environmental riders that threaten the public health and safety of citizens from my State of Connecticut and from States across this Nation. This amendment would override language that interferes with agency actions to protect our environment and clean up hazardous waste materials in our rivers and in contaminated industrial sites known as brownfields.

The Waxman amendment is particularly important in my home State of Connecticut, because it will allow the dredging of the Housatonic River to clean the riverbed that has been contaminated with PCBs. The Connecticut Department of Environmental Protection and the Environmental Protection Agency have both stated that the prohibition on the use of dredging as a means to clean up the river poses a serious threat to the ability to take the next steps to control immediate threats to public health.

Exposure to PCBs is dangerous and poses health risks to intellectual functions, the nervous system, the immune and reproductive system. We in Connecticut know that the Housatonic is unacceptably polluted. It is unacceptable for the House to tie the hands of the EPA in an effort to clean up contaminated sites like our river and others like it across the country.

I am also pleased that the Waxman amendment would allow the EPA to issue regulatory determinations for mercury emissions. Mercury is highly dangerous and is a serious health and environmental concern. It is critical that we permit EPA to take steps to control mercury emissions into the air and into the water.

According to the Toxics Action Center, there is a mercury advisory for every single lake in the State of Connecticut. We need to control the release of mercury. These regulations are an important step toward cleaner air, cleaner water, a cleaner environment. I thank Mr. WAXMAN for offering this amendment this evening.

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

Mr. Chairman, I am in earnest support of the amendment offered by the gentleman from California (Mr. WAXMAN) because it would remove dangerous anti-environmental riders from the bill. It would allow EPA to take action which will utilize dredging as a remediation tool until a referenced National Academy of Sciences study has been completed and distributed and analyzed by all interested parties. That is an issue which will bring about very substantial delay in the remediation of many places that contain PCBs and other contaminants.

The effect of this would prevent the EPA from dredging the Housatonic River. It would prevent the EPA from dredging the Hudson River of PCBs. And what will the effect of that be? The language in the report appears to be intended to promote indefinite delay. It does not tell the EPA to halt action until the NAS report is out; it orders delay until “all interested parties” have had time to analyze it.

The interested parties certainly include the polluters. In the case of PCBs in the Housatonic and the Hudson, that means General Electric favors a cheaper answer. GE analyzes every move EPA makes at great length. How much time will this financially interested party require to “analyze” this report? A long, long time I believe.

What is at stake here? First, human health. PCBs are a known carcinogen in animals and a probable carcinogen in humans. They are also suspected of being a serious endocrine disrupter and of being responsible for other serious health problems.

New Yorkers have been strongly advised to limit their intake of local fish for this reason, and EPA has just announced additional funding to educate people about the dangers of locally caught fish. The contamination damages the fish and other wildlife in and around the river.

We certainly do not want the PCBs cleaned up. They do not want our river to be an experiment used by the General Electric Company, or anybody else, for their particular chemistry work.

The report language uses an earlier EPA survey of how to deal with contaminated sediments as the basis for the committee’s direction. It implies that EPA’s own science has concluded that the GE so-called “natural recovery” method is the best way. It should be clear that EPA does not agree with this interpretation of the study.

EPA points out that there are different kinds of PCBs, different kinds of deposits, different kinds of rivers, and there is no one solution that applies to all. EPA has been studying the Hudson River situation for five years, and many of us have been unhappy with the repeated delays because of EPA’s own painstakingly slow review.

We do not want further delays, and we certainly do not want the public health and the river’s health left hanging while all interested parties are given more time to think about it.

I just today, new information has come out which reveal that the PCB deposits in the upper river of the Hudson are moving out. Forty percent of those deposits are moving out from where they are located, and 75 percent of those deposits that are moving out are becoming involved in the water column.

This information just out today tells us very clearly how all aquatic life in the Hudson River is now infected with PCBs. The PCBs in the Hudson River are ubiquitous. They are affecting the form of aquatic life. And we know how dangerous and damaging PCBs are. They cause cancer in animals. They are a probable carcinogen in humans. They cause abortions and they cause nerve disorders and endocrine disorders in human beings.

Mr. Chairman, this is a very serious problem. The delay that is contained in this legislation only prolongs the period where these PCBs will remain in the river, remain in the aquatic life, contaminate the estuary and the river itself, and become involved with people’s lives and be damaging to public health.

That is why the Waxman amendment must be passed, because it deals forthrightly and directly with this problem and would remove this report language from the legislation.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.
my family there and my six grandchildren and my five children.

We drink the Hudson River water, and we have done quite well drinking that Hudson River water. Not only does my family drink that Hudson River water, but we are an auxiliary emergency supply for 8 million people in a place called New York City, which is 200 miles downstream from where I live.

About 40 miles upstream are cities like Poughkeepsie, Hyde Park and Red Hook and Rhinebeck and Hudson and all the way up to where I live. And we take our drinking water directly out of the Hudson River.

It is approved by the Environmental Protection Agency. It is approved by the New York State Health Department and the New York State Environmental Conservation Department, two of the toughest regulatory agencies in America. They are so tough, that they even take precedent over the regulatory agencies about that.

I hear a lot of arguments about why these PCBs ought to be dredged.

First of all, I represent the twentieth largest dairy producing district in America.

Mr. Chairman, I know you represent a few cows, too. We represent a lot of corn growers and we represent a lot of apple growers. We live in the Rust Belt. From New York City to Albany, New York is the old Rust Belt. We have lost all of our jobs. They have all moved either to Maquiladora out in Mexico or they have moved overseas to China. We had that debate yesterday.

I have constituents who now are in their forties and fifties, I mentioned this yesterday, and they worked all their life at manufacturing and now the manufacturing jobs are gone. They do not want to move out of the beautiful Hudson Valley. That is where they live. That is where their kids grew up. Their grandchildren are there but they cannot find jobs.

So what do they do now? Some of those people that were now making $40,000 a year, they now work for McDonalds and maybe they take home $15,000 a year on that job but they carry a second job and maybe they make an extra $10,000 there, and that is about it. They have lost half of their earning capacity.

Why would JERRY SOLOMON stand up here and vote against dredging PCBs? Well, first of all, back in the early seventies and I was a town mayor and then a county supervisor and a State legislator and now a Congressman, and I have been there where the General Electric Company used to put PCB-laden water into the Hudson River.

You know why they did it and how they did it? They did it with a permit from the Federal Government and they did it with a permit from the New York State Environmental Conservation Department. They were forced to do that because before that they were using, in making capacitors, they were using a formula that created fire hazards and something had to be done about it. It was dangerous. So they switched at the request of the Federal Government and the State government.

It was all legal, whatever they were doing, maybe you want to call it polluting or when they were putting PCB-laden water into the river.

All of a sudden, one of the public utilities, like you have in your community, decided they wanted to remove a dam just below these factories and the Federal Government gave them permission to remove this dam. Well, this dam had been there for 100 years. Guess what was behind that dam? You cannot believe what was behind the dam. All of the stuff that had come down from all of the papermaking industries, and that is the only jobs practically we have left now, but all of the chemicals used had piled up behind this dam and some of the PCBs but, sure enough, when they were given permission to remove the move the stuff began to flow downstream for awhile.

Most of it just went on downstream 200 miles and went out into the Atlantic Ocean and that was the end of it, but the bit that did not were 40 hot spots which are stretched over about a 40 mile area and those 40 hot spots have been silted over now for 30 years.

So what my good friend, the gentleman from New York (Mr. Hinchey) and others are talking about happened 30 years ago. You think that this happened just yesterday or last year or the year before. It happened 30 years ago. Those hot spots are silted over.

Now, why could we not just go in there and dredge those hot spots out? Let me tell you what would happen. We all know when we take a glass of water and we put some sand in it and then we take a spoon and stir up the sand, what happens? The whole glass of water has got sand all through it.

From New York City to Albany, we have a 34-foot deep water channel.

The CHAIRMAN. The time of the gentleman from New York (Mr. Solomon) has expired.

(By unanimous consent, Mr. Solomon was allowed to proceed for 5 additional minutes.)

Mr. SOLOMON. Mr. Chairman, we have a 34-foot deep water channel, as I was saying. It has to be dredged every year because the Hudson River, different forces. The Hudson River is only an inch wide where I start, when you get down to New York City it is a mile wide or more, but Hudson River has to be dredged. It has a sandy bottom. So we can get our oil barges up and we can get our feed grain barges and we can get our food supplies up the Hudson River by barge, we have to keep it open. So the Army Corps of Engineers every year comes in and dredges a portion of this 150-mile long 34-foot deep water channel.

If we were to go ahead and dredge the PCBs, which are laying there dormant, buried and will not surface unless there is some major, major flood that has not taken place in 100 years, they will lay dormant.

But if we go in and dredge them, what happens? And this is what the scientists will tell us. And this is what the National Academy of Sciences is going to tell us in about 4 or 5 more months. If we dredge the PCBs upstream, it raises the level of PCBs all along the 200 mile long corridor. Then we have to dredge the channel every year.

Now, presently, when we dredge that channel, and my colleagues have seen a dredge barge come up and they throw the sand on the lower banks of a river and then it is above water level, just above water level, and that dredging material volatilizes, gets into the air, gets into the crops and the dairy cows. We do not want to lose that.

When we raise the level of PCBs downstream, not only do we begin to affect the water supplies, which are healthy now and there is no problem from any of these regulatory agencies about it, about the drinking water, now where are we going to put these dredge materials? If we throw it on those lower banks and it volatilizes, we are then putting PCBs over a 200-mile long stretch.

Now, what do we do? We either do not dredge the Hudson River or we encapsulate these dredgings about every 30 miles along the Hudson River all the way up to where I live. Now, 57 municipalities representing about 700,000 people have come out with resolutions saying please do not dredge this Hudson River. Please do not do this.

The New York State Farm Bureau, and the New York State Department of Agriculture have all come out and said do not dredge the Hudson River until we know for sure that there is not a better way.

The better way is contained in this report language, just the language, as the gentleman from California (Mr. JERRY LEWIS) has said. The report language simply says, and I would just say to my good friend, the gentleman from New York (Mr. Hinchey) and others, when were they last year when this language was ordered in the report? Not a word was raised on this floor about asking for this study that will be completed in about another 8 months. Not a word was raised on this floor.

Let me briefly just read the actual language so we all understand what we are voting on here. The language says, "The committee is aware of EPA's draft National Sediment Quality Survey issued in July of 1996 in which the agency concluded, 'listen to this, 'the agency concluded, among other things, that the preferred means of controlling sedimentation contamination risk to human health and the environment is through natural recovery.' Natural recovery.

"Despite this," this is continuing with the language, "Despite this conclusion, however, dredging is currently
being considered as a remedial tool, even though the impact of such an invasive approach is often unknown.

Last year the committee directed the agency to enter into an arrangement with the National Academy of Sciences to conduct a review which evaluates the availability, effectiveness, cost and effects of technologies for the remediation of sediments contained in these kinds of things.

Then it goes on and it says, "In light of this, the committee directs the agency to take no action which will utilize dredging as a remedial tool until this study has been completed and distributed and analyzed by interested parties, including Congress."

Now, let me tell my colleagues something. My colleagues have heard about 700,000 people that are opposed to this and all these municipalities. Who wants this dredging to take place? I can tell my colleagues who it is. It is a very, very small group, and we can count them on our fingers and toes, of some extreme environmentalists down in Westchester County or someplace down there who really want to upset the lives of all of these farmers that I represent up river. That is who is for this. Nobody else is for it. So all we are asking in these words, all I am asking, is that we wait until April of 1999.

Now, Mrs. Browner has already agreed to do this. She has agreed with me, with a quid pro quo and with others, with the New York State Farm Bureau, that we will wait until the year 2001.

The CHAIRMAN. The time of the gentleman from New York (Mr. Solomon) has again expired.

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

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

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

Mr. HINCHEY. With regard to the report language, the gentleman knows full well that there was an earlier attempt to put that specific language in the ISTEA bill. This House passed that bill. We were successful in getting this language, this anti-dredging, anti-environment, pro-pollution language out of the ISTEA bill over in the Senate.

That having been done, now some people are coming back here putting this anti-environment, pro-pollution language in the ISTEA report.

Mr. SOLOMON. I will just have to re-claim my time.

Mr. HINCHEY. Pro-pollution language—

Mr. SOLOMON. I ask for regular order.

Mr. HINCHEY. Into this bill.

Mr. SOLOMON. The gentlemen are out of order.

The CHAIRMAN. The gentlemen will suspend.

Mr. SOLOMON. I have reclaimed my time.

The CHAIRMAN. Both gentlemen will suspend.

Mr. SOLOMON. The gentleman knows better than that.

The CHAIRMAN. The gentleman from New York will suspend. The gentleman from New York (Mr. Solomon) reclains his time and may proceed.

Mr. SOLOMON. Mr. Chairman, as I was about to say, Helen Browner and the EPA have entered into a quid pro quo where they will wait until the year 2001, until we know exactly what the results are, and then they will take some action.

Now, the only problem is we have these environmentalists that are stirring things up, they are trying to stir up the Hudson River, but they are stirring things up and now they are trying to get her to change her mind. So that is why we ought to defeat this amendment.

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

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

Mr. LEWIS of California. I would like to say to the gentleman, Mr. Chairman, that the time he has used has been very valuable to the debate. It was a very articulate presentation of the real world, where the gentleman lives and is helpful to the discussion and a very positive contribution.

Mr. SOLOMON. Mr. Chairman, I invited all my colleagues to come up to my district and have a drink of water. They will love it.

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

Mr. Chairman, I am here today in support of my colleagues from Maine and California and everywhere in between who are trying to ensure that the Environmental Protection Agency has the ability to make the regulatory determinations for mercury emissions from utilities.

The committee report contains language that limits the ability of the EPA to issue rules on mercury emissions. We are working to make sure that such restrictions do not apply to activities authorized by law. I would like to emphasize a few points. The health risks of mercury are proven and they are significant. They are threatening society’s most vulnerable: Pregnant women and young children.

Mercury has spread and accumulated far throughout the United States. Officials in a total of 39 States have warned their citizens about the danger of consuming fish caught in streams, rivers, ponds and lakes. The fish contain levels of mercury that trigger the warnings. In about a dozen States every single body of water is posted with a health advisory.

Earlier this year the EPA released a report to Congress in which it identified mercury as a hazardous air pollutant of greatest concern for public health, and EPA’s scientists offer additional monitoring of emissions from power plants.

The provisions in this bill and language in the report would prevent the EPA from even gathering that data; that information that is needed to better gauge the scope of the problem.

Last spring the Maine legislature passed and the governor signed landmark legislation that would slash emissions of mercury from in-State sources. We are taking care of our own. The people of the State of Maine are looking upwind to see what steps are being taken in the regions that produce the emissions.

Last month the governors of New England and the premiers of Eastern Canada called for, and I quote, "The elimination of discharges of mercury from human activity into the environment."

One of the key components of their action plan was the recommendation for more research, more analysis and strategic monitoring. They saw the need to identify and to quantify sources of mercury deposition. They want to monitor deposition patterns and to develop ways of measuring and tracking progress.

The report would prevent the EPA from providing assistance in the cross-border effort. The report would prevent the EPA from taking the steps that are essential to protect the health of young children and women of childbearing age.

Mr. Chairman, I urge the adoption of the amendment.

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

Mr. Chairman, it appears from this discussion that the only thing that Congress fears is fear itself. We are afraid of existing law because the existing law is feared by special interests. We fear the cleanup of licensed nuclear facilities. We fear the cleanup of the air in Yosemite and the Grand Canyon, the Grand Canyon. We fear the suicide manufacturers, who oppose the implementation of the Food Quality Protection Act. We fear, as we have heard, New York and New England industries who oppose the dredging as a remedial tool. We fear the utilities who oppose the regulatory determinations for mercury emissions. Most of all, we seem to fear our very own Environmental Protection Agency and the Council of Environmental Quality.

My colleagues, this fear can be conquered. It is very simple. It only requires that we vote in favor of the Waxman amendment.

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

Mr. Chairman, for anyone who sacked out back in 1995 and pulled kind of a mini Rip Van Winkle and just woke up this week, we are right where we were back in 1995. It requires that we vote in favor of the Waxman amendment.
Let me tell my colleagues about these studies. They are being urged by the same group of people that when they heard from the Surgeon General in 1964 that tobacco causes lung cancer and emphysema, they are the same folks that are still studying it today, and not wanting to say anything about it on the floor of this Congress.

They are going to study it until time eternal rather than taking effective action to do something to protect our clean air and our clean water.

Then the other excuse that was advanced this evening was the suggestion that if we dealt with haze, the kind of haze we hear about down on the Rio Grande River or the kind of haze that sometimes lingers over the Grand Canyon, spoiling that wonderful vista, that if we dealt with haze in the air, that might be because, and they do not intend to study. And they have contended, that might be some way that they are actually going to do something about global warming. Heaven forbid.

The very thought that the ostrich would take its head out of the sand, getting hotter all the time, and actually do something about global warming before the glaciers melt and the forests and the farms are burnt up. What a horrible thought that is that they might do something.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DOGGETT) has expired.

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

Mr. DOGGETT. Mr. Chairman, so eager are they to thwart even the possibility that someone might study this growing danger of global warming, of the greenhouse effect, of the fact that a lot of the warming up is much warmer than this debate I must say, and the threat that that poses to the health and safety of the future of all the people on this world, so eager are they to prevent even a study that they have come in and tried to limit a study of haze that relates to the ability to see the great national wonders in our national parks and forests across this land.

That is the same exact position that led one of the Republican leaders to talk about our environmental law enforcers and to denigrate them as the gestapo of America.

Then there is the issue of PCBs in our water. It was only a few decades ago that one of our Nation's leaders said it actually something about the Housatonic. There is no topic quite like the Housatonic. Well, I do not think he had in mind a river that was full of PCBs. The EPA is talking about trying to do something about it. There is a fear that actually might go ahead and do something about it.

All this talk about things just being report language, when is it that we are going to see in a report that we want the Environmental Protection Agency to do a more vigorous job of enforcing our laws, cleaning up our water, cleaning up our air, protecting our natural resources so they will be there for our children in future generations?

That is the kind of report language I would like to see in this report instead of tying the hands and crippling the efforts of this agency to do its job. That is what is going to happen when we adopt the Waxman answer and reject the amendment by Mr. Mollohan.

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

Mr. Chairman, I rise in opposition to the amendment of the gentleman. This amendment would override several provisions of the VA-HUD report, and I would like to speak to two of them.

First, the amendment of the gentleman would roll back a much needed report on mercury emissions, language that would direct EPA to complete the scientific research it needs to make informed regulatory decisions.

EPA recently settled a mercury-related lawsuit brought by the National Resources Defense Council. In that settlement, it promised to decide by November 15 of this year whether more stringent controls on mercury emissions are needed.

What is the problem with that settlement? The problem is that there are actually going to do something about mercury. Most scientists agree that a certain amount of mercury is safe to ingest. However, EPA and the other government agencies do not agree, do not have a common understanding about what the levels are.

So it is perfectly reasonable, it seems, to ask EPA to step back and work toward some inner-agency agreement before issuing mercury regulations that, in all likelihood, will be more stringent than necessary and which has real job consequences.

Therefore, this VA-HUD language would simply require EPA to work with federal agencies, like the Food and Drug Administration, the Agency for Toxic Substances and Disease Registry, and the National Academy of Sciences. Together these agencies will, under this language, complete several ongoing studies on mercury transport and safe levels of mercury ingesting, giving EPA the sound science needed to reach common sense, informed regulatory determinations.

Mr. Chairman, secondly, in addition, I would like to comment on the regional haze provision of the amendment offered by the gentleman from California. I am a bit unclear if this portion of his amendment would have the effect which he intends. But recently many States raised concerns about EPA's regional haze implementation schedule.

Mr. Chairman, as though EPA was going to use its regional haze program to accomplish what it had agreed not to do under the new particular matter implementation schedule. However, these
Mr. PRICE of North Carolina. Mr. Chairman, I yield to the gentleman from California (Mr. WAXMAN) for his response and clarifying the record that this is not an anti-farmers provision.

Mr. BROWN of California. Mr. Chairman, I was not sure that I wanted to become engaged in this debate. But I do have some concerns about the Food Quality Protection Act, and since we have been discussing this enlightening way, I thought that I would proceed with the remarks which I had prepared.

I am speaking as a member of the Committee on Agriculture and one who has been involved in working on pesticides for about the last 25 years. I thought that I was finally witnessing some substantive progress with the passage of the Food Quality Protection Act in the 104th Congress. I should have known it was too good to be true.

The committee report language appears to place pesticide decisions into two categories: the “please-go-faster” category includes registering new products and granting emergency exemptions.

I note that reregistration decisions are not included in this category, even though we have been promising the public and the farming community for over 26 years that all pesticides on the market today would be reviewed to ensure that they meet contemporary health and safety standards. We have yet to keep that promise.
Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. Mr. Chairman, I yield to the gentleman from California.

Mr. LEWIS of California. One of the needs for this report language is that it would appear as though the agency is cherry-picking the way it will interpret the very law that your committee wrote, and it is a comprehensive bill. Remember, Mr. Brown, that this is the same agency that has a hand in the problems in our own territory like the Delphi ever-loving sand fly and the San Bernardino kangaroo rat. The EPA needs more direction. That is all this report language does.

Mr. BROWN of California. Let me say to my good friend from my neighboring congressional district that I am well aware of the defects in the way the EPA operates. I have no objections to giving them some direction. I do not wish, however, to withdraw the direction that we may have already given them in which they are not fulfilling at the present time.

I think that this is the whole intent of the Waxman amendment. I cannot perceive why it should even be controversial. I do not object to the directions coming from the Committee on Appropriations. I believe that they intrude on the prerogatives of the authorizing committee, but I even overlook that once in a while when I feel that the goal is worthwhile. But I think, in this case, we may have gone too far in an effort to prevent the agency from doing the job that we have told it we want them to do.

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

Mr. Chairman, I rise today in strong support of the amendment offered by the gentleman from California (Mr. WAXMAN). I had planned today to offer my own amendment to nullify one of the antienvironmental riders attached to the House-passed bill but instead my language will be included in this amendment and I want to thank the gentleman from California for his support and leadership on this matter. This full incremental report language that would seriously and unnecessarily delay the EPA's efforts to address the risk of exposure to mercury contamination from utility emissions. Let me be perfectly clear. The effect of the language is to say that EPA can issue no regulations with respect to utility emissions for 3 years. That is the effect of this language. It is significant, and that is why those on the other side are fighting so hard to keep it in.

Mercury is a naturally occurring element that has built up to dangerous levels in the environment due to releases from coal-fired power plants, waste incinerators and other types of manufacturing plants. After mercury is released into the air, it can travel great distances. It eventually settles in water, and, unlike other pollutants, it accumulates in the aquatic food chain and becomes more, not less, toxic over time in the tissue of fish. There in its most toxic form, methyl mercury, it contaminates humans who eat the fish.

The health risks related to mercury exposure are significant. The most vulnerable to mercury contamination are pregnant and nursing women and young children. Mercury poisoning can result in severe neurological damage to developing fetuses. Older children and adults can see effects such as paralysis, numbness in extremities and kidney disease.

In my home State of Maine, loons hold a special place in our hearts, but the VA-HLD appropriations bill is necessary for those State departments of environmental protection. To those that oppose the Waxman amendment, what I say is what are you going to tell your States, what are you going to tell your State biologists, what are you going to tell the mothers and children in your States who are at risk of mercury contamination, and frankly many of them do not know that. Are you going to tell them that, well, we ought to do nothing for 3 years?

I do not think that is an acceptable approach. These reports conclude that coal-fired power plants emit more mercury into the air than any other source. Estimates are that they release 52 tons of mercury every year, one-third of the annual emissions.

Now, what we are asking is for EPA to go to the utilities and gather information about utility emissions. We do not want to stop that. We want that to continue because the public has a right to know. They have a right to know this information.

Right now EPA is finalizing its information request to utilities. We know the problem. We know the sources. And accurate monitoring data by the EPA is necessary. We need to know. The report language would require several studies to address what are claimed to be current gaps in the scientific understanding of mercury. But the studies that we are waiting for, that those on the other side want to wait for, are not expected to be completed until 2002.

The time of the gentleman from Maine (Mr. ALLEN) has expired.
Canada as well with mercury contamination in Ohio's waterways. Ohio affects New York due to mercury contamination in Ohio's waterways. Ohio affects New York, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, and Canada as well with mercury contamination. These emissions are damaging our quality of life, the areas where we live, where we work and where we play. Yet the committee language will prevent the EPA from acting now. We cannot accept and we do not have to accept that our health is at risk due to pollution because everyone knows that in the next millennium we can have both jobs and a clean environment and that pollution represents wasted resources.

Mr. Chairman, the most disconcerting aspects of the environmental debate is that it demonstrates a kind of thinking that man has disconnected himself from his natural environment. We speak of the air as if it were a vacuum. We speak of the water as if it were a wet abstraction. We speak of global warming as if the globe is somewhere other than that upon which we stand, where we live.

Human life depends on the life of the planet. Our children's life depends on the life of the planet. A famous Indian chief once said, I think it was Chief Seattle, "The Earth does not belong to us, we belong to the Earth." The Earth and the environment which contains it are the fundamental preconditions of life. Now, if you believe that life is sacred, and I do, then you believe that it is a seamless web. That if life is sacred, the Earth is sacred. If life is sacred, the air is sacred. If life is sacred, water is sacred. If life is sacred, the globe is sacred and all those on it are sacred.

Now, this is not a mere rhetorical or philosophical proposition. This is not about the intricacies of environmental politics. This is a spiritual imperative. Without a place for us to work out our fate, there is no physical life for us to do the work of the spirit. This is a matter of life. The God on which our Nation trusts is the same God whose work is all creation. Creation is the work of God and if we are created in God's image, then we have more respect for God's creation. The mere possibility, the mere hint that greenhouse gases may be changing our global climate, that PCBs are contaminating our waters, that mercury is poisoning billions of millions of members of this House to leap to the defense of our common home. It is time to reconcile with the Earth, it is time for us to remember where we came from, and to remember that all life is precious and that life is sacred.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words. Mr. ALLEN. I move to strike the requisite number of words. (Mr. ALLEN asked and was given permission to revise and extend his remarks.)

Mr. KUCINICH. Mr. Chairman, the gentleman from California (Mr. WAXMAN) is right. Report language does state that the EPA not issue any regulatory action for mercury emissions from utilities until more studies are done. But studies have already been done. It is a fact that coal-burning utilities emit mercury from their smokestacks. It is a fact that mercury gets deposited in our soil and water. It is a fact that mercury accumulates in fish. It is a fact that mercury works its way up the food chain to people. Coal-fired utilities emit 52 tons of mercury each year nationwide.

Mercury contamination is a serious problem in Ohio. The National Wildlife Federation has determined that coal-burning utilities are responsible for 25 percent of the State's total mercury emissions. These utilities are responsible for more than 9,000 pounds per year of mercury released into the air. The Ohio Department of Health has issued a statewide fishing advisory for every river, lake and stream in Ohio due to mercury contamination. Mercury is affecting New York, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, and Canada as well with mercury contamination.

In fact, he does not believe that. He knows that this is more important language, and that is why we are having this debate. But I think what we have got, then, is something that I will characterize as ghost riders. The appropriations process that we have before us is haunted by ghost riders. The Senate passage of the bill last night and voted on several of them today, and it attempts to remove several of these ghost riders from that bill and those were unsuccessful.

Here we have a series of these antienvironmental ghost riders on today's bill that threaten the public's health and safety. This is a simple strategy that every American can read. The strategy is to tie the hands of the EPA and prevent them from performing the duties that they were statutorily charged with carrying out. The American people sent us here to serve them. The people who sent us here both expect and deserve more.

Now we have rivers that are not safe to swim in. The fish from those rivers are not safe to eat. The sediments are not safe for children to play along. I think it is clear that we need an Environmental Protection Agency that is armed with all of its tools.

The majority in this House wants to strip the river out and pretend that PCBs and DDT will simply go away on their own. They are not going to go away on their own. Polychlorobiphenyls are among the most stable compounds, chemical compounds that we know. Their solubility in water is extremely low so they get caught up in the sediments. They are not going to stay under the sediments when the rivers' oxbows move. By the normal action of the river, those sediments turn over, those PCBs or DDT. DDT and PCB are similar really only in the fact that they are both heavily polyalginated, and that is really their only similarity other than the fact that they are both proven carcinogenic compounds.

The kind of normal action of the river continually releases that material into the environment again time after time and keeps the rivers uncLean. However, the PCBs, when ingested by human beings or by fish, they go into the fatty tissues; and that is the route by which they become carcinogenic.

Our rivers should be available to the owners of the banks of those rivers, if we have any concern for private ownership, for them to use. They should be available for vacationing families. They should not be closed with ominous "keep out" signs with skulls and crossbones that say "do not eat the fish."

There is an implication here that dredging is not a tried and proven method. It has been used. It has been a steady part in 23 of the 25 Superfund cleanups involving PCBs or DDT, either as a primary or secondary means. It is a remedial dredging procedure that has been used again and again successfully. There is no question about its having been used and it being tried.
The National Academy of Sciences presented a study entitled “Contaminated Sediments in Ports and Waterways, Cleanup Strategies and Technologies.” Doing another study when they have already done that in the way they are not unique. Connecticut is dilatory. It ends up leaving us in a position where we may not be able to reach a conclusion here at all.

My district is the Housatonic River. The Housatonic River, when PCBs run down that river, goes on into Connecticut and the governmental authorities in both Massachusetts and Connecticut are deeply concerned about making certain that this process is not slowed down, that it goes forward.

All the Environmental Protection Agencies in those States and the law enforcement agencies in those States are agreed upon that we can argue about the merits of a do-nothing Congress in the case of these ghost riders. I suspect that the American people would be very much served and very happy if we did exactly nothing in relation to such items that have been attached to the report language of the bill. But at least then the Congress would be doing no harm. Surely, to do no harm ought to be the goal for every one of us.

But the American people at least in my area surely do want the EPA to do its job. So we should adopt and support the Waxman amendment in order to eliminate these ghost riders from this bill.

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

Mr. Chairman, I rise, obviously, to oppose the amendment and with some concern because I do not wish to discuss the amendment. We have had a lot of time to consider this amendment and several others in this bill. I do wish that we could conclude our debate and bring it to a close, because I think it is a very important bill that should be concluded tonight, and we can go on to other business.

I cannot for the life of me understand why we are dragging out the debate as long as we are. But since we are dragging it out, it has given me an opportunity to go to the New York Times. Sometimes I read the New York Times and even the Washington Post. I venture forth and sometimes I read the Wall Street Journal going all the way up to New York.

I picked up the first copy of the New York Times I have seen in months, perhaps a month and a half ago. I have been there waiting for this debate to be over with. For the life of me, when is it going to be over? It is no reflection on the author of the amendment. He means well. And all the opponents, they may mean well. And good grief, we just keep debating it.

So I am reading this lead editorial. It says “The Firestorm Cometh.” Mr. Chairman, I would like to take an opportunity to read it. Charles Labelia, who has been leading the Justice Department’s campaign finance investigation, has now advised Attorney General Janet Reno that under both the mandatory and discretionary provisions of the Independent Counsel Act she must appoint an outside prosecutor to take over his inquiry. The other important figure in this inquiry, Bureau of Investigation Director Louis Freeh, has already recommended an independent counsel. Ms. Reno can give her usual runaround about being hard-headed, but we side from the meaning of this development.

The two people in the American Government who have to deal, in this case, the lead prosecutor and the top investigator, are convinced that the trial of potentially illegal money leads so clearly toward the White House that Ms. Reno under Federal law, be allowed to supervise the investigation of her own boss. When it comes to campaign law, this is the most serious moment since Watergate.

These are not the judgments of rebel subordinates or hot-headed junior staff members. Freeh, a former Federal judge, has been, if anything, too loyal to Ms. Reno during the nine months that she has ignored his advice. Labelia was hand-picked by Ms. Reno on the basis of his experience and skill to run this investigation. Either she has to come forward and make the impossible argument that they are incompetent or bow to the law’s requirements.

I got to this last paragraph, and I had to stop. I should not read the New York Times? Certainly it is the Washington Times or maybe the Times-Picayune. But I checked the headline. No, it is the New York Times, right out of New York City. It is the lead editorial.

This is the last paragraph. It says, Ms. Reno may grumble about leaks of supposedly confidential advice, but the fact is that the American people need to know that the top two law enforcement officers believe the Attorney General is derelict. The New York Times.

Moreover, Freeh and Labelia are right to separate themselves from Ms. Reno, because if her attempt to protect President Clinton from raising from investigation continues, it will go down as a black mark against Justice every bit as historic as J. Edgar Hoover’s was.

I am very happy to see such a monstrous debate on the issue of the riders, because I think it shows that we, as Democrats, intend to draw the line on these various appropriations bills, and that is why we support the Waxman amendment tonight.

I am just going to mention two brief things. First, with regard to the provision prohibiting the EPA from taking any action to remove contaminated sediments from rivers, lakes, and streams, I just wanted to point out that there are many Superfund sites in the United States that are on the national priority list of Superfunds and that might be listed on the Superfund site list in the future that could require the removal of contaminated sediments.

Secondly, with regard to a rider that would delay an already prolonged process from reducing mercury emissions from electric utilities, just last Thursday. I am not sure to launch the release of a report that addresses mercury emissions from utilities.

My colleagues have talked about this because of the concern that this type of pollution from utilities causes to the environment, and I just wanted to say that, as States and eventually the Federal government move towards a more competitive electricity utility market, addressing mercury and these kinds of emissions is a unique, manageable, and prompt matter is going to become increasingly important.

We simply have to recognize that this rider will make it only more difficult to address mercury pollution in the context of electricity deregulation.

Mr. Chairman, I thought I had to be in the Senate to listen to an old-fashioned filibuster, but at least the gentleman from Louisiana gave me the opportunity to witness one for the first time. So I appreciate that. I was very happy to see so much debate on the issue of the riders, because I think it shows that we, as Democrats, intend to draw the line on these various appropriations bills, and that is why we support the Waxman amendment tonight.

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We simply have to recognize that this rider will make it only more difficult to address mercury pollution in the context of electricity deregulation.

Mr. Chairman, I urge my colleagues to support this critical Waxman amendment, to protect the environment and America’s taxpayers. This is really a serious risks. I thought that, on the other side, think that this is just as easily read the telephone book, the fact of the matter is that this is important for us. I am very proud to see that so many of
us on the Democratic side stood up tonight and pointed out that this continued assault on the environment will not continue to take place in this House as long as we are around here and able to express ourselves.

Mrs. KENNEDY of Connecticut. Mr. Chairman, I rise in strong support of the amendment offered by Mr. WAXMAN of California. This amendment would eliminate controversial, anti-environmental riders attached to the bill at the last minute. This amendment would override language which interferes with agency actions to protect the environment and public health authorized by existing statutory authority. Specifically, the amendment would override provisions in this bill which would significantly delay efforts to clean the PCB contaminated Housatonic River in my home state of Connecticut. The Connecticut Department of Environmental Protection has contacted me in opposition of these provisions and the Environmental Protection Agency has indicated that these provisions pose a serious threat to their ability to take actions necessary to control immediate threats to public health.

PCB contamination poses threats to the health of individuals who come in contact with PCB contaminated soils, sediments, and wildlife. Exposure to PCB is carcinogenic, and poses health risks to intellectual functions, the nervous system, the immune system, and the reproductive system. The amendment would also correct language which would delay the cleanup of sites contaminated with mercury, exposure to which can cause serious neurological damage.

We must act immediately to clean up these contaminated sites and reduce the possibility of exposure to these dangerous chemicals. This amendment is supported by the National Environmental Trust, the National Resources Defense Council, the Public Interest Research Group and the Sierra Club, and several other environmental groups. I urge my colleagues to support this important amendment and protect our children from exposure to environmental hazards.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The question was taken; and the vote was taken by electronic device, and there were—ayes 176, noes 243, and there were 176, noes 243, and there was a recorded vote.

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 243, not voting 16, as follows:

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I rise today to seek the assurance of the gentleman from California that if EPA does not move expeditiously to resolve this important matter prior to conference, that he will work with me in the context to reach a resolution.

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

Mr. DAVIS of Virginia. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Chairman, I would like to associate myself with the gentleman from Virginia. In May, I joined the gentleman in sending a letter to EPA attempting to resolve this important issue. I am disappointed in the response we have received and hope that the gentleman from California (Chairman LEWIS) will work with us in conference, should congressional action be necessary.

Mr. DAVIS of Virginia. Mr. Chairman, reclaiming my time, I thank the gentleman from Virginia (Mr. MORAN), my friend, and would ask if the gentleman from California (Chairman LEWIS) can help us in this endeavor.

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

Mr. DAVIS of Virginia. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I thank the gentleman from Virginia (Mr. DAVIS) and would like to offer my assurance that should EPA not work to resolve this issue prior to conference, that I will work with the gentleman on language addressing this issue at that time.

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

Mr. Chairman, I rise for the purpose of engaging the gentleman from California (Mr. Lewis), chairman of the Subcommittee on VA, HUD, and Independent Agencies Appropriations, in a colloquy.

Mr. Chairman, in 1996, in a bipartisan effort, the Edible Oil Regulatory Reform Act, Public Law 104-55, was signed into law. This law required the Federal Government to differentiate between edible oils and other oils, such as petroleum, when issuing or enforcing any regulation related to the transportation, discharge, emission or disposal of oils under Federal law.

Unfortunately, the EPA has yet to provide for differentiation treatment of these oils, despite common sense industry practice for aligning the agency's rules into compliance with the Edible Oil Regulatory Reform Act.

The animal fats and vegetable oil industry has been working with the Congress and the Federal Government on this issue for more than 6 years. The Congress expressed its will when it passed the legislation in the 104th Congress.

It is time to bring this issue to conclusion and stop the bureaucratic red tape. I'm pleased to introduce an amendment to the EPA appropriations that requires the EPA to promulgate a rule by March 31, 1999, that will bring this issue to closure and provide for a regulation that is in compliance with the law that this body passed by unanimous consent in 1995.

The House Committee on Appropriations has included report language also calling for closure to this issue by March 31, 1999.

I would urge the Members to include the Senate language in the final version of this legislation as it makes its way out of conference. I hope the Members would agree that the EPA should move forward with common sense and balanced regulations on these nontoxic edible animal fats and vegetable oils.

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

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

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the gentleman from Illinois, for bringing this matter to our attention. I certainly agree that the EPA should move forward in this matter and we will work with our Senate counterparts in conference to see that the Agency does so.

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

Mr. Chairman, I would like to engage our distinguished Chairman of the Subcommittee on VA, HUD and Independent Agencies of the Committee on Appropriations, in a colloquy.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I would be happy to join in a colloquy with the gentleman from Wisconsin.

Mr. NEUMANN. Mr. Chairman, as you know, I am a former home builder and very familiar with the role of home mortgages in the country. We have about 23,000 mortgage brokers that originate half of all home mortgages throughout the country. These are small businessmen and women who provide a convenient and valuable service to both wholesale lenders and home buyers.

Sometimes the lender pays the mortgage broker for their services which allows lower upfront costs to the home buyer. These payments are known as lender paid mortgage broker fees or yield spread premiums.

Confusion has arisen over the legality of lender paid broker fees. Nearly everybody agrees that Federal law does not make lender paid mortgage broker fees automatically illegal. Yet, HUD has difficulty in fully clarifying this point.

Although the bill does not help HUD clarify this issue, I know the gentleman shares my concern and I appreciate his efforts during the committee mark-up.

Is it the Chairman's intention to address the lender paid mortgage broker fees in the conference committee?

Mr. LEWIS of California. Mr. Chairman, first, let me say to my colleague, the gentleman from California (Mr. LEWIS), and my good friend, the gentleman from Virginia (Mr. BLiley), and the EPA as we go to conference and over the next year to resolve this very important issue.

Mr. LEWIS of California. Mr. Chairman, the gentleman will yield, I would be pleased to enter into a colloquy with the gentleman from New York.
Mr. ENGEL. Mr. Chairman, I thank the chairman for his encouraging words and look forward to working with him and the gentleman from Virginia and the EPA over the next year to find a way to afford my community and others greater flexibility in their efforts to offer Americans the cleanest water possible.

Mr. Chairman, with the gentleman from California's reassurances at this time, I will not offer my amendment.

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

Mr. Chairman, I would like to thank the gentleman from California (Mr. Lewis), the chairman, and the gentleman from Ohio (Mr. Stokes), the ranking member, for engaging in this colloquy with me and with the gentleman from Maine (Mr. Allen). I appreciate their work on this very important legislation.

We rise to discuss the Veterans Equitable Resource Allocation, or VERA system. My colleague from Maine and I have been confronting a very difficult situation in our State of Maine, which is part of Veterans Integrated Service Networks, or VISN 1. Under the VERA system, VISN 1 has lost funding in the past, and is expected to lose additional funding this year. We are concerned about the level of care that our veterans are receiving.

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

Mr. BALDACCI. I yield to the gentleman from Maine.

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

Mr. Chairman, the Togus, Maine VA Medical Center has been recognized in the past as a center of excellence. Now, however, the Maine delegation is hearing continual complaints from veterans that they are having to wait longer for appointments; that they are being asked to travel out of Maine to receive services; and that their doctors do not have time enough to spend with them. I am concerned that VISN 1 is not receiving adequate resources under the VERA system to serve Maine’s veterans.

Mr. BALDACCI. Mr. Chairman, this is not a new concern. Last year the House VA-HUD conference report requested a GAO study of how the VERA system affects the VISNs. We had expected this report to be concluded by this point so we could have the information before voting on another appropriations bill. It is now my understanding that the GAO report has been significantly delayed and is not yet available.

I would ask the chairman and ranking member when are we expecting the GAO report to be issued?

Mr. LEWIS of California. Mr. Chairman, the gentleman yield?

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

Mr. LEWIS of California. Mr. Chairman, it is our understanding that the GAO intends to issue its report by September 1 of this year.

Mr. ALLEN. Mr. Chairman, if the gentleman will continue to yield, my colleague and I expect that the information to be concluded in the GAO report may assist the subcommittee and all Members in examining the reallocations that are underway. It would have been our wish, and I suspect the wish of the chairman and the ranking member, to have this report in hand before considering this legislation. At a minimum, we hope that it will be given careful consideration during conference.

Mr. BALDACCI. Mr. Chairman, to ensure that this year’s appropriation bill provides adequate resources to every VISN to provide every veteran with the quality health care to which he or she is entitled, I would ask the chairman and ranking member to assure the body that as this legislation goes to conference that they will do all they can to ensure the recommendations of the GAO are taken into consideration.

Mr. LEWIS of California. Speaking for myself, I tell the gentlemen from Maine that I will carefully examine the GAO report and will take the GAO’s recommendations in due consideration as we go through the conference.

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

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

Mr. STOKES. Also speaking for myself, I similarly assure the gentlemen from Maine that I will carefully examine the GAO report and will take the GAO’s recommendations. Providing quality health care to all of our Nation’s veterans must be our highest priority.

Mr. BALDACCI. Mr. Chairman, I thank the chairman and the ranking member for their commitment to the veterans of this country.

Ms. HOoley of Oregon. Mr. Chairman, I move to strike the last word.

Mr. STOKES. Is it not to engage the distinguished chair from California in this colloquy. I want to highlight the merits of an innovative approach to water-management related plant research and wastewater system management that has been initiated by a terrific project called the Oregon Garden Project in Silverton, Oregon. It has national implications and is a national model.

By publicly showcasing how wetland functions as a natural water filtration system, and demonstrating unique water conservation techniques within a world class garden, the project provides an outstanding public education opportunity.

The garden, a $36 million construction project, is being funded by $8 million in private dollars and contributions from a partnership of State, Federal and local government. In fiscal year 1999, I am requesting a final $1 million to be provided within the EPA account for completion of construction, complementing the $2 million already appropriated.

The Oregon Garden holds a great deal of promise for teaching the public and developers about the critical role wetlands play in habitat and ecosystem management. While developed wetlands will never be able to replace preservation of existing wetlands, the reality is that wetlands must be restored and created. Developers must know how they function to accommodate them in the process. The Oregon Garden will also serve as an educational site for horticulture, wetland management, and wastewater processing.

The nursery industry in the State of Oregon is the fastest growing industry in our State. It holds great potential for job development. We feel like the more than $9 million that have already been invested in this project makes us an excellent partner.

I recognize the chairman cannot grant every request, but I wonder if the chairman would work with the other body in the conference and try to find funding for the Oregon Garden.

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

Ms. HOoley of Oregon. I yield to the gentleman from California.

Mr. LEWIS of California. The gentleman probably does not know this, but my first grandchild, being born a few years ago, the kids named her Katelyn Rose, and since that time I have been in the gardening business. So I want the gentlewoman to know that not only do I appreciate her making this effort, we will try to do everything we can to move the item along and we will be glad to be cooperative with her.

Ms. HOoley of Oregon. Mr. Chairman, I thank the gentleman very much.

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

Mr. Chairman, I thank my colleague from California (Mr. Lewis), the chairman of the VA-HUD appropriations subcommittee, for the time and hard work which he and the gentleman from Oregon (Mr. Stokes) have rendered in bringing this legislation before the House. I want to raise an issue related to a component of the bill before us today, the Federal Emergency Management Agency (FEMA).

On July 6, residents of my district and five adjacent districts in Los Angeles County came under a mandate to purchase flood insurance through the National Flood Insurance Program administered by FEMA, the Federal Emergency Management Agency. This has caused a spirited debate within the region as to the necessity for this insurance and the accuracy of the maps of the Los Angeles County Drainage Area, which includes the Los Angeles River, the Rio Hondo River, and the San Gabriel River. Those maps are simply not accurate, and yet one has to purchase insurance based on those maps.

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

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

Mr. LEWIS of California. Is it not correct that the city of Lakewood,
California, paid for a new survey and found that almost 5,000 homes and businesses were mistakenly included in the floodplain and, thus, would have been required to purchase insurance when it was, in fact, not required?

Mr. HORN. That is true, and 5,000 structure were exempted.

Lakewood did this at no small cost based on its limited budget. The city undertook the survey to ensure that the revised insurance rate maps were as accurate as possible.

As the gentleman is undoubtedly aware, the American Heritage Rivers Initiative was established by an executive order and has not gone through the entire committee process. It has not received any Congressional authorization. It has not received any appropriation, and it has not received sufficient oversight by the committee of jurisdiction.

A number of Members, including myself, are very concerned about this American Heritage Rivers Initiative. The program has not been authorized by Congress. So I rise today to ensure that the Congressional intent is not to be misconstrued by the Council on Environmental Quality, or CEQ.

The CEQ should not rely on the Committee on Appropriations VA-HUD Appropriations report language to fund the American Heritage Rivers Initiative, and I am just asking the chairman, the gentleman from California (Mr. Lewis), if that is his understanding.

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

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

Mr. LEWIS of California. Mr. Chairman, I am very well aware of your concerns; and if you recall, I shared them with the administration on several instances during the past year. It is not my intent that the report language be a base for funding. And as I say, the revised insurance rate maps were as accurate as possible.

For this reason, I would like to ask the distinguished chairman if funding could be made available to ensure that new maps would be prepared more accurately and reflect the true areas which might be impacted by the 100-year flood event.

I would hope that the flood insurance now being imposed would also have a moratorium placed on it until the maps of the flood plain prove to be accurate.

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

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

Mr. LEWIS of California. Mr. Chairman, my colleague is raising a very important point; and this issue is one that has been around for a while and yet it needs some serious oversight and review. It is a problem that I would like to continue to explore with my colleagues, especially the gentleman from California (Mr. Horn) and I appreciate his bringing this to our attention further.

Mr. HORN. Reclaiming my time, I would hope that something could happen in conference or in another way.

Mr. LEWIS of California. If I know the gentleman from California (Mr. Horn), I will see what we try.

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

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

Mr. STEARNS. Mr. Chairman, I rise to speak about my amendment and engage in a colloquy with the gentleman from California (Mr. Lewis).

At this point I include for the record, Mr. Chairman, the following body of my remarks, which gives this rocky history without belaboring it here on the House floor:

By way of background, on April 13, 1998, a US District Court Judge ruled that the National Park Service had an obligation to block the construction of a proposed St. Croix River Bridge connecting Stillwater, Minnesota, with Houlton, Wisconsin. Minnesota and Wisconsin spent $14 million on bridge design and purchase of required right-of-way. This construct-

tion block was allowed despite Department of Transportation approval of the project. Why was the project halted? Because the St. Croix River is designated as a Wild and Scenic River, under the Wild and Scenic Rivers Act of 1968. This Act was the basis for the National Park Service’s Authority.

The decision turned on the interpretation of the project as a “water resource project” by the National Park Service. This gave the National Park Service authority over the project, even though apparent Congressional intent was to prevent any bridge over a designated river to be considered a “water resource project” under the Wild and Scenic Rivers Act.

In the case of the American Heritage Rivers Initiative, as Congress was not involved in the creation of the program, courts would have no Congressional history as guidance should disputes arise.

If the Wild and Scenic Rivers Program is any indication, we have reason to be concerned about increased federal involvement in our local affairs. It is still unclear exactly what American Heritage Rivers Initiative means. Already, we are seeing that the policy on this Initiative is far from clear. I wrote to the CEQ over a month ago to request clarification on what a kind of an exemption a Congress-

man whose District was opted out could expect to receive. I still have received no re-

sponse from the CEQ.

Does the Chairman agree that the CEQ should not use VA/HUD appropriation funds to operate the American Heritage Rivers Initiative without Congressional approval?

Mr. LEWIS. Yes, I do. I will work with concerned members of this body to make sure that we prevent the CEQ from operating the American Heritage Rivers initiative with public money without Congressional Approval.

Mr. STEARNS. Given Mr. Lewis’ agreement to resolve this situation, I would like to withdraw my amendment to prevent the CEQ from using VA/HUD Appropriation funds to admin-

ister the American Heritage Rivers Initiative. I look forward to working with the Chairman and ensuring that the CEQ does not use federal funds to operate the American Heritage Rivers Initiative without Congressional Approval.

I would like to thank the gentleman for his continued leadership on this issue.

Mr. Chairman, let me conclude by saying, does the chairman agree that the CEQ should not use VA/HUD appropriation funds to operate the American Heritage Rivers Initiative without Congressional approval?

Mr. LEWIS of California. That is the strong position of the chairman.

Mr. STEARNS. Mr. Chairman, I appreciate the comments of the gentleman from Califor-

nia (Mr. Lewis) here and I look forward to working with him in ensuring that the CEQ does not use federal funds to operate the American Heritage Rivers Initiative without
Mr. LEWIS of California. I appreciate very much the colloquy and agree with the gentleman.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am glad that the gentleman from Florida (Mr. STEARNS) did not offer this amendment. Let me say that the American Heritage Rivers Initiative has garnered more support in northeast and central Florida than any other issue in recent history.

Why? Because this involves one of our Nation's most important resources, the St. Johns River. This initiative was announced by President Clinton in his 1997 State of the Union address. But it was pursued by local and State leaders. This is the only way a river can be a part of this program, through local efforts. So this initiative is a perfect example of the partnership that we should support, not eliminate.

In Florida, we value our natural resources. The local elected officials throughout the Third Congressional District, both Republicans and Democrats, put all of their efforts into getting the American Heritage Rivers designations for the St. Johns.

Our river has been recommended for the list of 10, and I stand here to let my colleagues know that the Stearns amendment or the comments of the gentleman from Florida (Mr. STEARNS) do not reflect the sentiments of Floridians.

I am glad that he did not offer the amendment, and I urge all my colleagues to support the environment and support restoring our Nation's rivers, which we all treasure in our community.

Mr. VENTO. Mr. Chairman, I move to strike the last word. (Mr. VENTO asked and was given permission to revise and extend his remarks.)

Mr. VENTO. Mr. Chairman, I wanted to point out that I have two amendments, amendments No. 10 and 11, both of which would have restored nearly $30 million to successfully yet consistently undervalued FEMA emergency food and shelter program with an offset for various other accounts.

This emergency food and shelter program is a unique program that partners the Federal Government with some of the largest national and local charitable organizations down to the local level. These charities work in partnership with FEMA. They do great work. Mr. Chairman, Second Harvest reported 8 million children, 3.5 million seniors, and millions of the working poor people served in 1997.

I would point out that this amendment and initiative was supported by various groups, including the American Red Cross, Catholic Charities, the United Way, Council of Jewish Federations, and many others. I have been supported by many Members on this, not the least of which is my colleague and friend the gentleman from New York (Mr. WALSH), who I yield to at this point to make a statement and to enter into a colloquy with the gentleman from California (Mr. LEWIS).

Mr. WALSH. I thank the gentleman for yielding. I would otherwise have risen in strong support of the gentleman's amendment. But what we have decided is we will have a colloquy to discuss this. If the gentleman from California were to join us, I would like to ask a question.

Mr. Chairman, as the gentleman from California is aware, the Emergency Food and Shelter Program is a model program that acts as a vast safety net for homeless and hungry individuals nationwide. I know that the gentleman has been supportive of this program and has indicated a willingness to see what can be done to provide additional resources for this program.

Would the gentleman agree that the Emergency Food and Shelter Program is an effective, well-run program and that it has become increasingly difficult to accommodate all the requests from charitable organizations for emergency food assistance?

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

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

Mr. LEWIS of California. I concur with the gentleman from New York and the gentleman from Ohio, as I support the Emergency Food and Shelter Program. This program is a well-administered, effective program. The program is a model of public-private partnership with local boards distributing funds quickly and efficiently to the neediest areas of the country with minimal but accountable reporting. I also recognize that there are growing requests for emergency assistance from charitable organizations that have made it increasingly difficult to meet all the requests for food assistance.

Mr. WALSH. Mr. Chairman, in the event that additional resources become available when the House conference with the Senate begins on this bill, will the gentleman work with us to see if some additional funds may be made available for this effective, vitally needed program?

Mr. LEWIS of California. I appreciate the gentleman's continued interest in this program. Let me assure the gentleman from New York and the gentlemen from Ohio and others with an interest in supporting the Emergency Food and Shelter Program that to the degree that additional resources become available when we go to conference on this bill, I will continue the work together with these gentlemen to see if additional resources can be found for this important program.

Mr. WALSH. I thank the gentleman. Mr. VENTO. Mr. Chairman, I, under the circumstances, will not offer the amendment. I would just point out that these are effective programs that very often the benefits go directly to people. There has been very little in increase that has been provided for these programs over the last 4 or 5 years. I think that they are due an increase especially because the local groups that are in fact operating these programs are operating on overload and much need help. I appreciate the gentleman's willingness to work with us and therefore will not be offering the amendments and will withdraw them.

The Emergency Food and Shelter program is a unique program that partners the Federal Government and some of the largest national charity organizations down to the local level. The charities that work in partnership with the FDA program are on overload. Demand for food and shelter is rising and the funding level of EFS has not kept pace with the need. Second Harvest has reported to us that 8 million children, 3.5 million senior citizens, and millions of the working poor need emergency food assistance.

The U.S. Conference of Mayors has reported that 86 percent of cities cite an increase in food demand and that some 19 percent of the requests for food have gone unmet.

Given this additional funding, the Emergency Food and Shelter program through its partners, can help these citizens in need. The EFS program has had an outstanding record of allocation of funds to the neediest areas in our country. The Emergency Food and Shelter Program provides just that, food and shelter or emergency housing assistance, to hundreds of thousands of families, with 97 percent of the funds going directly for food and shelter services.

The offset for this bill is coming from a program that has received a $268 million increase over FY 1998 funding, while the EFS program has not received an increase of even $1 million since 1990 and in fact, it was cut by $30 million in FY 1995.

The effort to increase funds for this program is supported by a solid group of organizations deeply concerned about the increased demand for emergency food and shelter. Groups like the American Red Cross, Catholic Charities, the United Way, Council of Jewish Federations, Food Research and Action Center, the National Council of Churches, Bread for the World, National Alliance to End Homelessness, National Law Center on Homelessness and Poverty, National Low Income Housing Coalition, Second Harvest, and many others. This effort is deserving of other members support as well.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word. I move to do this in order to recognize the statesmanship of the gentleman from California (Mr. ROHRABACHER) who has put his 5-minute speech in the RECORD. I will put my 10-minute speech in the RECORD, also.

Mr. Chairman, a mere 10 minutes is not enough to praise the gentleman from California (Mr. LEWIS) and the gentleman from Ohio (Mr. STOKES) for the way in which they have conducted themselves.

I do want to take a minute for a very brief colloquy with the gentleman from California with regard to FEMA if he is willing to do so.
I want to commend the gentleman from California (Mr. Lewis) for directing the Federal Emergency Management Agency in last year's bill to submit a report assessing the need for additional Federal disaster response training capabilities.

It is my understanding that FEMA acknowledged the need for an expanded program to meet the increased demand for training of emergency personnel. Therefore, I would like to inquire as to the gentleman's intent regarding the development of additional FEMA training facilties. Is it the gentleman's intention to encourage FEMA to take a more thorough look at this option?

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

Mr. BROWN of California. I yield to the gentleman from California.

Mr. LEWIS of California. First let me say I very much appreciate my colleague from California raising this question. I appreciate not only his interest but our mutual interest in this subject, the item having to do with this colloquy about having FEMA establish an additional disaster procedures training center in or near the territory that we represent. It's absolutely vital to the Federal Emergency Management Agency in last year's bill to submit a report assessing the need for additional disaster response training capabilities.

Mr. Chairman, I move to strike the last word. Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to enter into a colloquy with both the gentleman from California (Mr. Lewis) and the gentleman from Ohio (Mr. Stokes).

Mr. Chairman, I would like to thank the gentleman from California and the gentleman from Ohio for their recent efforts. Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the last word. Mr. Chairman, I would like to thank the gentleman from California for bringing this very important matter to the VA-HUD appropriation subcommittee's attention. I agree that the present heat crisis threatens both the lives and livelihoods of a great many of our citizens. FEMA has pledged to reduce loss of life and property and has promised to protect our Nation's critical infrastructure from all types of hazards. We will do everything within our power to work with you until a viable solution is available for everyone. I want the gentlewoman to know that it is my intention to work very closely with her and with FEMA on this matter.

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

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Ohio.

Mr. STOKES. I thank the distinguished gentlewoman from Texas for yielding to me. I would say to her that I must concur with the chairman. I too thank her for bringing this serious item to our attention. FEMA is a Federal agency with more than 2,600 full-time employees. FEMA often works in conjunction with local emergency management agencies. We would encourage FEMA to work with Houston and Texas authorities to bring a quick and decisive end to the current problem in hoping to bring relief to this current devastating heat.

Ms. JACKSON-LEE of Texas. I thank both the gentleman from California and the gentleman from Ohio. I thank them for their concern and their willingness to take this serious matter to the attention of the VA-HUD appropriations subcommittee and the whole House because we must be concerned about how we will protect our citizens from this deadly and unusual heat. Texas, especially its elderly citizens, deserves our help. I urge Congress to take all necessary steps to resolve this serious situation with FEMA's assistance. I thank them very much for their cooperation.

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

Mr. Chairman, just a few moments ago, several of our colleagues engaged in a colloquy with regard to the subject of the Veterans Administration and the implementation of the Veterans Equitable Resource Allocation System. From the course of that colloquy, they drew the attention of the House to the impact of the implementation of this system on the funding for the veterans services, particularly veterans health care services in the State of Maine and elsewhere in New England.

I intend at the appropriate time of the consideration of H.R. 3603 to offer an amendment which would prescribe that none of the funds available in the act may be used by the Department of Veterans Affairs to implement or administer the Veterans Equitable Resource Allocation System.

The reason that I will do that is because there is nothing equitable in the administration of this system by the Veterans Administration. In fact, it is having a profound negative effect on the quality of health care available to many of our veterans health care institutions across the country, resulting in the deterioration of the health care of veterans and their health and even the loss of life in many instances.

Mr. Chairman, I would like at this time to draw the attention of the House to the impact of these proposed cuts in veterans health care funding in various sectors of the country which will take place shortly unless we intercede and make it impossible for the Veterans Administration to implement this program.

They are as follows: For network number 1, Boston, serving Maine, New Hampshire, Vermont, Rhode Island, and Massachusetts, the cut there will be $38.8 million. For Albany, serving upstate New York, the cut there will be $12 million. For New York City, serving lower New York, Newark, and New Jersey, the cut there will be $48 million. For Pittsburgh, Pennsylvania, serving West Virginia and parts of Ohio, the cut there will be $12 million. For Wheeling, West Virginia, the cut there will be $3 million. That is network number 4.

For network number 6, headquartered in Durham, serving North Carolina and part of West Virginia and Virginia, the cut there will be $1 million. For network number 9, headquartered in Nashville, serving Tennessee, part of West Virginia, and Kentucky, the cut there will be $12 million. For network number 12, headquartered in Charlotte, serving part of Illinois, Michigan, and Wisconsin, the cut there will be $28 million.

For network 15, headquartered in Kansas City, serving Kansas, Missouri,
and part of Illinois, the cut there will be $20 million. For network 17, headquartered in Dallas, serving Texas, except for Houston, the cut there will be $10.5 million. For network 19, headquartered in Denver, serving Colorado, Wyoming, Utah, and Montana, the cut there will be $13 million. For network 22, Long Beach, serving California, lower California and Nevada, the cut there will be $23 million.

Mr. Chairman, I will offer at the appropriate time an amendment to strike this provision from H.R. 4394, which will result from these cuts taking place. I wanted at this moment to take this opportunity to bring to the attention of the Members of the House the impact of these cuts.

Mr. Chairman, I yield to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, what the gentleman is proposing is to roll back VERA, which was passed last year, which made an allocation on funds based upon population. As the gentleman knows, there has been many, many years with the population, particularly the veterans who have been moving to the Sun Belt. As the gentleman knows, lots of hospitals have had their amendment in deference to the colloy that was conducted?

Mr. Chairman, I yield to the gentleman from New York.

Mr. HINCHEY. Mr. Chairman, I did not hear the gentleman's introduction. But I had come here with the intention of joining in his amendment and supporting his amendment. However, did the gentleman indicate on the face of the colloquy that was conducted that he is not presenting the amendment?

Mr. HINCHEY. Mr. Chairman, if the gentleman will yield, I shall yield, the gentleman for the question, and I appreciate the opportunity to, once again, make it clear that, at the appropriate moment in the consideration of this legislation, I intend to offer this amendment.

Mrs. ROUKEMA. That was my understanding. But the question had been raised on this side. I certainly would look forward to that, because this should not be a regional issue. Clearly, the issue has been distorted here in terms of the cost of care of the veterans in our region.

Mr. HINCHEY. Mr. Chairman, the gentlewoman is absolutely correct. That is my understanding. This is a very serious matter. We believe that, at this particular moment, this is the proper way to address it.

Mr. LEWIS of California. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, would the parties involved that, if there is going to be an amendment later, we could discuss this later instead of talking about it now.

Mrs. ROUKEMA. That is certainly correct. And I wanted to clarify the point.

The CHAIRMAN. If there are no further amendments to this section of the bill, the Clerk will read.

The Clerk read as follows:

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, and services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $5,026,000.

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses to continue functions assigned to the Council on Environmental Quality and Office of Environmental Quality pursuant to the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,675,000.

Provided, That notwithstanding any other provision of law, no funds other than those appropriated under this heading shall be available to carry out the requirements of the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977.

COUNCIL ON ENVIRONMENTAL QUALITY

For necessary expenses to carry out the requirements of the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, $2,675,000.

Provided, That notwithstanding any other provision of law, no funds other than those appropriated under this heading shall be available to carry out the requirements of the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977.
the Senate.

To the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

RADIOLOGICAL EMERGENCY PREPAREDNESS FUND

There is hereby established in the Treasury a Radiological Emergency Preparedness Fund, which shall be available under the Atomic Energy Act of 1954, as amended, and Executive Order 11241, for offsite radiation emergency planning, preparedness, and response. Beginning in fiscal year 1999 and thereafter, the Director of the Federal Emergency Management Agency (FEMA) shall promulgate through rulemaking fees to be assessed and collected, applicable to persons subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this paragraph during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for a radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall be provided to public and private services, including administrative costs of collecting such fees. Fees received pursuant to this paragraph shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

EMERGENCY FOOD AND SHELTER PROGRAM

To carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended, $100,000,000 Provided, That total administrative costs shall not exceed three and one-half percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

For activities under the National Flood Insurance Act of 1968, $22,685,000 for salaries and expenses associated with flood mitigation and flood insurance operations, and not to exceed $78,464,000 for flood mitigation, including up to $50,000,000 for expenses under section 1366 of the National Flood Insurance Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2000. In fiscal year 1999, no funds in excess of: (1) $47,000,000 for operating expenses; (2) $343,989,000 for agents' commissions and taxes; and (3) $60,000,000 for interest on investments shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations. For fiscal year 1999, flood insurance rates shall not exceed the level authorized by the National Flood Insurance Reform Act of 1994.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER FUND

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,619,000, to be deposited into the Consumer Information Center Fund: Provided, That any revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $2,500,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1999 in excess of $2,500,000 shall remain in the fund and shall not be available; except as authorized in appropriations Acts.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

HUMAN SPACE FLIGHT

For necessary expenses, not otherwise provided for, in the conduct and support of human space flight research and development activities, including research, development, operations, and services; maintenance, modification, and construction of Earth and space test facilities; and repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law, $11,080,000,000; Provided, That the aggregate of such amounts for research, development, and construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law shall be $11,080,000,000; Provided, further, That the aggregate of such amounts for research, development, and construction of facilities including repair, rehabilitation, and modification of real and personal property, and acquisition or condemnation of real property, as authorized by law, shall be subject to FEMA's radiological emergency preparedness regulations. The aggregate charges assessed pursuant to this paragraph during fiscal year 1999 shall not be less than 100 percent of the amounts anticipated by FEMA necessary for a radiological emergency preparedness program for such fiscal year. The methodology for assessment and collection of fees shall be fair and equitable; and shall be provided to public and private services, including administrative costs of collecting such fees. Fees received pursuant to this paragraph shall be deposited in the Fund as offsetting collections and will become available for authorized purposes on October 1, 1999, and remain available until expended.

AMENDMENT NO. 5 OFFERED BY MR. ROEMER

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. ROEMER: Page 72, line 15, strike "$5,309,000,000" and insert "$3,708,000,000" and add "Mr. CHABROW. Mr. Chairman, I rise to offer an amendment with my friend, the gentleman from Michigan (Mr. CAMP), to cancel the funding for the International Space Station. While I have the deepest respect for my chairman, the gentleman from California (Mr. LEWIS), and my dear friend, the gentleman from Ohio (Mr. STOKES), who has received so many accurate tributes tonight, I deeply disagree with them on the funding for this Space Station.

Now, while the facts continue to pile up for, I think, our side to cancel this Space Station, the votes continue to go down, but I hope that my colleagues will pay attention to the debate tonight and to three reasons why I think we should cancel this Space Station.

Mr. Chairman, I believe that my colleagues will be patient at the late hour of this evening. I have three arguments to cancel the Space Station: The Space Station of the past, the Space Station of the present, and the Space Station of the future.

First of all, the past. When the International Space Station was first devised by then-president Ronald Reagan, President Reagan said that the cost of the Space Station would be about $8 billion, would house eight astronauts and do eight scientific missions. It would be completed in 1992.

Mr. Chairman, today, in 1998, the International Space Station, according to the General Accounting Office study, the total cost of maintaining, of research and development, of protecting the International Space Station, has gone from $8 billion to $130 billion. Now, some might say, $98 billion for eight missions, that is too bad. Well, of the eight missions, staging is gone; transportation, no, we cannot do that anymore; manufacturing facility, they cannot do that anymore; assembly facility, storage facility, we cannot do any of those. But for $98 billion, I have a bargain for you. We can do some research.

$8 billion for eight scientific missions has been spent on building the Space Station, and do eight scientific missions. That is the General Accounting Office. That is not Tim Roe- mer, that is not the opponents, that is a bipartisan study. That is the Space Station of the past.

The Space Station of the present: Mr. Golden, who I deeply respect running NASA now, has appointed an outside accounting of what the Space Station is going to cost us in the future.

I was delighted to see our chairman, the gentleman from Louisiana (Mr. LIVINGSTON), he has read the New York Times, he said for the first time in a few months. Those of us who are reading the New York Times and the Post are our daily paper, we discovered that the Russians need a $22 billion IMF package. Yet they are our key partner in putting the Space Station together. They cannot come through with funding the Space Station. They have $22 billion to pay for the Russian participation? You got it. The taxpayer. The taxpayer is going to pay. The chairman of the Space Station of the past, according to the Jay Chabrow report, appointed by Mr. Golden, if everything goes perfectly now, with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion bailout package. They are not going to be able to pay for their fair share. The costs do not cover the likelihood of losing a launch vehicle, they do not include delays, they do not include the IMF package. Yet they are our key partner. Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner. Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner. Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner.

Mr. Chairman, the Space Station of the future, according to the Jay Chabrow report, appointed by Mr. Golden, if everything goes perfectly now, with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner. Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner. Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner.

Mr. Chairman, the Space Station of the future, according to the Jay Chabrow report, appointed by Mr. Golden, if everything goes perfectly now, with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner.

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Mr. Chairman, the Space Station of the future, according to the Jay Chabrow report, appointed by Mr. Golden, if everything goes perfectly now with the Space Station, it will cost us $100 billion. But if the Russians pull out, they are just getting a $22 billion IMF package. Yet they are our key partner.
have in this bill, and we have agreed to a balanced budget, we have in this bill zero funding of AmeriCorps, yet full funding for the Space Station. The President asked for 100,000 Section 8 vouchers for the poorest of the poor in our communities. We could not even pass an amendment to get vouchers for 35,000 of those poor people. And $80 million is cut for community development block grants from the 1998 level, again for the poorest of the poor, the people who do not benefit from the economic bull market. That is the Space Station of the future, taking money away from other valuable programs.

Mr. ROEMER. Mr. Chairman, if the gentleman from California (Mr. Lewis) would yield, let me say to the distinguished gentleman that I have not been able to control the time that has been allocated to this bill all day. Mr. Chairman, reclaiming my time, I can tell that the gentleman is not interested. Mr. ROEMER. Well, we may not have very many speakers, Mr. Chairman, and we may not need a time agreement. I am sure after the gentleman from Michigan (Mr. SANKS) speaks, we may not have very many more.

Mr. LEWIS of California. Mr. Chairman, again reclaiming my time, let me say that we have had this discussion on many an occasion. The last time we had a vote on this same proposal, admittedly that vote was on the authorization bill, the vote was 305 to 112 in favor of maintaining the station.

The important point here is that I think my colleagues realize that one of the reasons that this bill is so difficult, and that the gentleman from Ohio (Mr. STOKES) and I work so hard to provide some balance in this bill, is because we have got a variety and mix of important Federal responsibilities within this package.

The question of VA medical care is a very, very critical part of this bill. Our housing programs are a very important part of the bill, EPA is. But also NASA’s work happens to be a part of our bill. And for someone to suggest that one way or another we are going to jettison our vital work in space versus housing programs is not only not fair, it is a reflection of a lack of understanding of the significance of the work of this subcommittee.

There is not any doubt that Space Station is fundamental to our future work in space. And, indeed, if we find ourselves at one point or another faltering on Station, then NASA, in my judgment, will be the agency that we now consider it to be. Its budget will shrink dramatically and our role in space will be radically impacted.

I think it is important for my colleagues, those who are especially mindful today of the role and importance of the United States human spaceflight program, I think it is important for them to focus upon the sad news that we received yesterday of the death of Alan Shepard, the first American in space.

On May 5, 1961, Alan Shepard was launched into space aboard a converted missile which had an imperfect success record in a capsule that had never been tested with a human occupant, with many, many questions about what the impact of space flight would be on human beings. It was this Nation’s first step in human space flight.

Alan Shepard was welcomed back from his 14.5-minute, 151,600-foot suborbital flight 115 miles into the Florida sky and 302 miles downrange, and as a true American hero he was welcomed back.

He was awarded the Congressional Medal of Honor for space, two NASA Distinguished Service Medals, Exceptional Service Medal and numerous other medals and awards.

His death is a great loss to the Nation and I join with all of those who mourn his passing and celebrate his remarkable contributions that would reduce the obligations the taxpayers face while preserving the scientific research they deserve.
Since the President has declined to suggest a solution of his own to the problems created by Russia’s involvement in the program or to enforce his own budget caps, Congress must hold the Administration’s feet to the fire.

The Senate has proposed one option of isolating the International Space Station in its own appropriations account in order to end the financial flaw games that the Administration has been playing for the last few years.

While this is an important step, we also need to hold the President to his promises. H.R. 4194 does just that, providing all of the funding for the International Space Station that the President originally promised us he would need. But, in holding the President to his original promise that the Station would cost no more than $2.1 billion a year, this bill reflects a lack of confidence in NASA’s justification for program increases in the absence of meaningful reforms necessary to prevent further schedule slips and cost overruns.

The decision to fund the International Space Station at a rate of 2.1 billion despite the Administration’s $2.27 billion request reflects the reality that NASA’s budget numbers for this program have no credibility. In recent years, NASA has a track record of revising its estimates just a few weeks after Congress funds the Station at these levels. I don’t think anyone should be surprised that this budget strategy has worn thin. NASA has $400 to $500 million of carryover in the Space Station program which should satisfy any budget shortfall.

Members who vote against the amendment offered by the gentleman from Indiana will vote to provide an adequate level of funding while sending a message that NASA must get its fiscal house in order.

In closing, Mr. Chairman, I feel the underlying basis for my opposition to the human exploration of space while responsibly addressing the program management’s flaws. I urge my colleagues to support human space exploration, our international commitments, and those who have dedicated themselves to get the research laboratory off the drawing board and into space.

Mr. LEWIS of California. Mr. Chairman, in closing, I would note that Members that because there is no time agreement, this will be the last debate this evening and there will be no more votes.

PARLIAMENTARY INQUIRY

Mr. OBEY. Mr. Chairman, I have a parliamentary inquiry.

THE CHAIRMAN. The gentleman will state it.

Mr. OBEY. Mr. Chairman, I did not hear what the gentleman from California said and I am not certain what he meant by what he said.

THE CHAIRMAN. The gentleman stated that the debate on this subject would be the last debate tonight and there would be no more rollover votes tonight.

Mr. OBEY. Does that mean that the gentleman intends to finish the debate on this amendment tonight?

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I do intend to finish the debate on this amendment tonight. We will roll that vote. We will not go any further than the NASA section this evening and so essentially this will be the end of the debate.

Mr. OBEY. Mr. Chairman, could I ask, has that arrangement been cleared with our leadership?

Mr. LEWIS of California. I believe that is correct. I have been instructed that is correct.

Mr. OBEY. That the debate will continue on this amendment until it is finished tonight, but no more amendments?

Mr. LEWIS of California. No more amendments, that is correct, and no votes. In other words, the vote will be rolled until the time agreement.

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

Mr. Chairman, I did not intend to speak on this amendment but, frankly, we have had a good day filled with a lot of congestion and camaraderie, but one of the observations made by the subcommittee chairman frankly got my dander up a little bit.

Mr. LEWIS of California. Mr. Chairman, if the gentleman will yield, I did not mean to say that I, want the gentleman to know.

Mr. OBEY. I simply want to suggest that I do not think that the juxtaposition that the gentleman from Indiana laid out between spending in space and spending here on the planet is at all illegitimate, as the gentleman seemed to suggest.

I remember being thrilled when Alan Shepard went into space, and I am still thrilled by the prospect of space exploration. But times have changed and budgets have changed. When Alan Shepard went in space, we were meeting our obligations to house people on the ground, we were meeting our obligations to our environment, we were meeting our obligations to the poorest among us. We still had national standards for the treatment of persons who were not in the winner’s circle. Today, we have none.

It just seems to me that when we see that this system has been redesigned seven times, when we see that the cost has exploded, when we see that this Congress is apparently willing to kill the low-income heating assistance program to keep houses warm for four million people on the face of the Earth, then I feel no guilt whatsoever in suggesting that we ought to shut down that fancy house in the sky for eight people.

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

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

Mr. LEWIS of California. Mr. Chairman, I appreciate where my colleague is coming from. We have had this discussion a number of times on the floor, as the gentleman knows. And the gentleman certainly knows that our committee is doing everything we can to adequately fund the Station program. But having said that, within this specific category the entire administration is supporting our position regarding this.
NASA projects and missions and other technological advances. Now the Space Station is simply a floating lemon that will cost 24 times its weight in pure gold. This is a project plagued with delays, cost overruns and unfulfilled promises. The so-called benefits have fallen short and the American taxpayer has been left picking up the tab.

The other day I listened to two renowned scientists argue this $38 billion black hole is not necessary and is actually hurting the sciences. In fact, the presidents of 10 different scientific societies have called the Space Station, and I quote, "A project of little scientific or technical merit that threatens valuable space-related projects and drains the scientific vitality of nations." The $80 billion not yet spent on the Space Station could provide an enormous benefit to earth-based research.

I am not advocating we stop exploring space. In fact, I support space exploration and must recognize that the costs of this project far exceed the benefits. Last year NASA captivated the world when it successfully landed the Pathfinder on Mars at a cost of $267 million, a mere fraction of the cost of the Space Station. Let us not forget that while space is infinite, the American taxpayers' deep pockets are not.

We must get serious about what the core functions of the Federal Government are. We continue to pay over $350 billion in interest on the debt each year. And while children have been amazed by the promises of space exploration and the excitement it generates, I am concerned with the debt each of these children will inherit. Congress should invest the $8 billion in those children's future, not in a flying lemon.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisise number of words.

Mr. Chairman, I appreciate the persistence of the gentleman from Indiana and the gentleman from Michigan. The Space Station was being debated when I first got here. And one of the major arguments for it was that we had to do it before the Russians did. I would recommend that people go back to the CONGRESSIONAL RECORD. This started out as something we had to do to frustrate the Russians. We now have to do it to help the Russians. The justification has fled its head, but the thrust goes forward.

The gentleman from California does do, in my judgment, a very good job within the constraints that he has. We want to lessen his constraints, I do not know how many Members of this body have told veterans how much they regret having cut the smoking benefit. I daresay that a great majority of the Members of this House have said to the veterans, "I am very sorry, but the constraints won't let me." The case is very appropriative where we could reinstate that veterans health benefit for smoking simply by reducing this particular item.

So the gentleman says, well, we do not understand how the Committee on Appropriations works. We do. We have rules, and the rules say the allocation goes to this particular subcommittee and they decide among NASA and EPA and Interior and Department of Veterans Affairs. Members have a right to say that they want continue with the Space Station. I do not think Members have the intellectual or moral right to say to veterans that they are very sorry that they could not fund the health care to go forward with the Space Station. That is the kind of choice we are making. Or to say to people, we wish we could clean up more Superfund sites, or house more people who are hurting.

The other thing I must say. We sometimes get into rhetorical excess. The worst things I have ever heard about NASA sometimes comes from its defenders, because people come to the floor and say if we kill the manned space program in NASA, what an unfair denigration of the important scientific work of NASA. The gentleman from Michigan just mentioned the Mars Pathfinder. That was not dependent on the Space Station. Indeed, those other things are competitors with the Space Station.

The gentleman from California correctly mentioned Alan Shepard, one of our great heroes. And we all lament the fact that he died. We care a lot about human life.

When we put human beings into the situation, we greatly increase the cost because of our concern for human life. There are times when human participation is scientifically very important.

The justification for the amount of money being spent to put those people up in space in a Space Station is not scientific. It is psychological. It is political. One must look at what the arguments used to be. No one has argued to me and I have never seen any group of reputable scientists not directly involved in this project say that if the Federal Government were to make available to scientists this amount of money, that is how they would choose to use it.

Of course there is some worth to it. It is not money wasted. The question is not whether it has got any value at all but whether this is the single best use of that money. And no one thinks there is a scientific justification. As I said, this started out with a political justification and a military justification.

I am sorry I did not have time to go back into old CONGRESSIONAL RECORDS of 10 years ago, when we were being told we had to do this as a matter of national security, we had to do it because if we did not do it the Russians would do it. Now it has become a part of the budget of the Department of Veterans Affairs. Members have a right to say that they want continue with the Space Station. I do not think Members have the intellectual or moral right to say to veterans that they are very sorry that they could not fund the health care to go forward with the Space Station.

The gentleman from Indiana (Mr. ROEMER) has made clear, the money has been spent. The gentleman from Wisconsin said we already spent $22 billion. I assume what he was doing was submitting for us an illustration in the dictionary of idioms.

The gentleman from Wisconsin wanted to illustrate the meaning of saying "throwing good money after bad." Because the argument that having spent $22 billion on a project that was originally supposed to cost 8, we should now spend another 70, has a logic which defies the intellect. Do not understand why having already spent three times as much we were told we should, we should go on so we spend 12 times as much. We are in a very constrained situation. There is no case to be made that this is the best use of the money.

I hope the amendment is adopted. If the amendment is adopted, we would have more money to use for housing, for the Environmental Protection Agency, for clean up more Superfund sites, or house more people who are hurting.

The answer is no. It is not too late to ask for the correct information. Mr. NETHERCUTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened with interest to the gentleman from Massachusetts (Mr. FRANK) try to set a comparison about how we spend money in the Government. And I want to commend the chairman, also a member of the Committee on Appropriations, not the subcommittee, but the House Appropriations Committee, and I appreciate the chairman and the subcommittee allocating the funds appropriately in a very tough budget climate.

I would just say to my colleagues, what is it worth to cure cancer, that is what we are talking about, or helping cure diabetes, or helping cure paralytics? There is a great body of scientific research going on through NASA that is planned for the International Space Station to cure these diseases, to grow cells and try to see what impact microgravity or near-zero gravity has so that we can employ that kind of technology and research and information and bring it here on earth and replicate it and cure disease.

So I think I make the argument very forcefully that I think we are going to do perhaps more to help people in the years ahead through the International Space Station than all research. It has got a tremendous potential to help people in need. And there is nothing that has a greater need in our society than health care for our people and in combating disease.
And I can say to my friends from first-hand experience, and I do not know if the gentleman from Indiana (Mr. ROE-MER) or the gentleman from Michigan (Mr. CAMP) or others have gone there, but if they have not, I suggest they do to get a sense of what we are trying to make a reality.

They can see the American portion of the Space Station built. It is being built now in a very high-tech environment, in a high-energy environment I might say. Certainly, Boeing is the contractor and has an interest in this, which gives an interest in my state. Well, that is fine. But I tell my colleagues, the morale of the people working on the Space Station is extremely high. They have great hope and great interest in the good things that will come from this Space Station.

So I would just say to my friends and my colleagues, I think this has great, great future value, this whole Space Station concept and all the medical research. Just from a medical research standpoint, there is no doubt that we are potential in the disease areas that I mentioned earlier, cancer, diabetes, microgravity and paralysis. I mean, there is a tremendous potential here that we should not overlook and be shortsighted and short-sighted on.

So I urge rejection respectfully of the Roemer-Camp amendment because I really think this is something we have to do in order to meet the future needs of our country and pay attention to the future and certainly the health future of this great Nation and the world.

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

Mr. Chairman, I rise in strong support of the Roemer-Camp bipartisan amendment. And to my colleague from California, the subcommittee chairman that I respect so very much, I think we should know that maybe the reason this discussion is ongoing from year to year and each year we are trying to make it clearer to those who are voting here on the House floor that our investment, that of the United States, and Russia's investment is going deeper and deeper in the hole and, in turn, it is negatively affecting our very own domestic budget. And those of us that keep talking about this do it for a purpose. I mean, bad money after good money does not make sense when we have such tight budgets.

I oppose further funding for the Space Station because I believe it is wasteful. It is wasteful spending that drains resources from our Nation's most urgent needs. This project, I believe, is an unwise investment for our Nation, not only fiscally but also scientifically.

To date, the Space Station has experienced cost overruns resulting in billions of dollars that our taxpayers are paying, and it is quite evident in binned them. In the very worst, Russia's inability to pay its fair share of the project is extremely troubling to me. This is an international project. I mean, it is supposed to be. I think that is one of the things we should be deciding, is it or is it not an international project.

Also, supporters of the Space Station say we can learn many things from microgravity research. We just heard that today. Well, with the savings from this amendment, we could offer college education, including tuition, fees and books to 500,000, a half a million, students who could not otherwise afford college right here on earth. With $1.6 billion, we could expand the WIC program so that all eligible pregnant and nursing mothers can get the food supplements; and we would still have money left over.

Supporters of the Space Station make claims that research in space will advance health research. Well, with $1.6 billion, we could fully fund the National Institutes right here on earth. With limited funds available for programs right here on earth, we must focus our resources on our Nation's most urgent needs in order to ensure a bright future for our children and our country.

Let us not send our tax dollars out in space on a project that is clearly lost in space when we have needs not met right here on earth. Let us cancel the Space Station. Do it now. Stop wasting money. Vote yes on the Roemer-Camp amendment.

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

I rise in strong opposition to the Roemer amendment. In this era, more than at any other time in history, our future depends on our staying on the cutting edge of the knowledge frontier. Why in this budget and other parts of the budget we have this year and we have other years increased our investment in NIH, in the National Institutes of Health. That is why we struggled to get more and more money in the National Institutes of Science. That is why we support R&D tax credits, to help companies invest the amount into research and development that they need to be on the cutting edge of product development. If you are not on the edge of science, if you are not out there pressing the frontiers of knowledge now, in this era of extraordinary, fast-paced change, our children will not have the economic opportunity we would hope for them nor the opportunity to improve the quality of their lives that we have had.

Investing in the Space Station is part of keeping America at the cutting edge of the knowledge frontier. That will have enormous dividends for people there. Well, with $1.6 billion on the Space Station is leading to developments that could more than make up for our Federal investment. For example, the U.S. is currently using space-based research to gain a better understanding of combustion, which accounts for nearly 85 percent of the world's energy production and is a leading cause of the world's atmospheric pollution. Consider that U.S. fuel consumption is approaching 300 billion gallons a year and will increase by $100 billion a year. If the microgravity combustion research helps make our energy use more efficient, even if we only use 1 percent less fuel, we will save more than $3 billion a year and reduce industrial pollution at the same time.

This kind of research that can go on in space is the kind of research that cannot go on elsewhere and can have enormous dividends both in freeing up resources and in attacking some of our most serious problems. But it is not just what we can do when we get there. It is what we are doing in the process of going there. And, yes, it has been more expensive than we thought because we have never done it before. It has taken longer than we thought, because no one has ever done it before. But we are in building this Space Station. But we are learning an enormous amount along the way. What we are learning is strengthening our manufacturing base and our capabilities in many, many ways.

To build a Space Station, you have to build product, parts, components to a 30-year life standard. You cannot run down to the hardware store and get something to repair it if it does not work. We have to go back down to Earth and get a fix-it quick. When we work to build a Space Station, we are building to 30-year life standards and that has never been done and has extraordinary implications for manufacturing and other areas. It has led to the development of increased productivity through integrating design and manufacturing in frankly revolutionary ways.

When I go through the plants in my district that are building parts for the Space Station and see the developments that have come out of this demand for 30-year life, it is awesome. It is going to have enormous implications as the years go by for the quality of products like automobiles, for their safety, for their strength, for so on and so forth. When I go into companies in my district that design and produce for the Space Station, I am struck by the extraordinary challenge of keeping the environment clean, of keeping clean water within a tight capsule for months and years at a time. Think what that has already done for the science of cleansing air, for managing liquids. It is extraordinary what we have already learned just in trying to invent to the standard that the Space Station challenge puts upon us.

And so along with the Space Station commitment goes the development of many, many thousands of high-paying jobs, 500 high-paying, high-tech jobs just in the companies in Connecticut. These are the very kinds of jobs that not only can do this job but keep America at the cutting edge. I urge
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Members to be far-sighted and oppose this amendment.

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

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

Mr. MOLLOHAN. Mr. Chairman, I rise in opposition to the amendment. This amendment would end U.S. participation in the International Space Station. Once again, as we look year in and year out, we find ourselves debating whether or not to continue U.S. leadership in this vital space initiative. Opponents of this program ask you to focus on cost. But any cost analysis must also involve a benefit analysis. The benefits to be gained from research and technological leadership reverberate far beyond space exploration and will be shared by all Americans.

The international space station will serve as a research laboratory for present day advancements, and it will undoubtedly lead to enhanced drug design and better treatment of diseases.

Technology developed for the space station will also lead to advances in numerous fields, including environmental systems, communications, and computer technology. Micro technologies and robotic systems developed for the space station are just two areas where businesses are already reaping benefits. More gains will follow.

New technologies will allow for the expansion of existing businesses and the creation of new businesses. Advanced gains through NASA programs have been, and will continue to be, an important source of commercial development.

Just as the race to the Moon propelled the United States to the world leadership role in science and technology in the second half of the 20th century, the space station will guarantee the United States remains the leader far into the 21st century.

While the full participation of our partners remains a concern, NASA has taken concrete steps to plan for any contingency. NASA is proactively addressing these problems—establishing the Russian program assurance budget to provide contingency planning funds, and initiating development of an interim control module should the Russian service module be delayed.

With the first components of the space station planned for launch in the next several months, now is not the time to retreat from our commitments. I urge my colleagues to oppose this amendment and continue support for our Nation's space program.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentlewoman from Texas. (Ms. ROEMER).

Ms. JACKSON-LEE of Texas. Mr. Chairman, associate myself with the remarks of the gentleman from West Virginia, and simply say that for each dollar that we invest in the space program we receive up to nine in return in new product, technologies and processes on Earth.

I have the greatest respect for the gentleman from Indiana (Ms. ROEMER), but let me say to you that the numbers are somewhat skewed. The gentleman from Indiana knows and we know that the original 1984 estimate of $8 billion for the Space Station was development cost. In 1993, NASA estimated that a fully operational Space Station would cost $17 billion. The $17 billion include research and operating expenses, along with hardware development. The $98 billion figure includes costs such as $43 billion for the space shuttle program for 10 years of operating expenses. The real cost for the International Space Station is $21 billion.

Frankly, Mr. Chairman, I would simply say we cannot afford to get rid of the Space Station. Our Russian friends and our copartners around the world are committed to saving the Space Station. The Space Station provides us in the show and tell with an array of opportunities, air conditioning, advanced materials and plastics and many others. I oppose the amendment because I believe we cannot look back, and in tribute to Alan Shepard we must look to the future. I think all Americans would have to do that.

Mr. Chairman, I rise in opposition to the amendment offered by Representative ROEMER, and in support of our efforts in space.

The persons who support this amendment argue that they can no longer afford to invest in the International Space Station. I believe, on the other hand, that this space station is an opportunity that we cannot afford to pass up. NASA has a proven track record. The science experiments that have been performed have led not only to making our lives more convenient, but also improve our health and well-being. For each dollar that we invest in space programs, we receive up to nine in return in new products, technologies, and processes here on Earth. Fellow colleagues, we owe it to our constituents to make sure that the International Space Station becomes a reality.

I want to remind you all, the materials research that has been done by NASA in space has been invaluable to us. With the help of the International Space Station, we can only expect more breakthroughs and innovations for manufacturers, businesses, and consumers.

I would like to give you an example of how research in space is helping our materials research on Earth today. If you look around, you will notice a plethora of metal items. Metals such as steel and aluminum are often cast directly into the shapes that you see, and even more likely, the metal started out as a liquid, way back at the beginning of its manufacturing life. If you look at the making things out of metal, like casting an engine block for a car or the circuitry for a microchip, you would want to know some very important things—for instance, how durable will the metal be? Or how long will it take to make this product?

For manufacturers, knowing these things is extremely beneficial, because it affects the cost and the quality of their products. To answer these questions, scientists must rely on the science of micro-physics, or the study of microstructure, which helps predict the behavior of materials at the molecular level.

Because gravity affects the way that things solidify, gravity also affects the formation of microstructure. This makes it very difficult for engineers and scientists to predict what will happen when you begin the manufacturing process. In other words, it is simply too difficult to make any predictions about what gravity will do to the formation of the microstructures, unless you know what will happen when there is no gravity to control the manufacturing process.

Experiments conducted on the Space Shuttle by Professor Martha Glicksman have helped materials scientists and engineers take significant strides toward the goal of being able to predict how microstructures will develop during the manufacturing process.

As a benefit of these experiments in space, scientists have obtained the highest quality information every produced on the development and evolution of dendrites, a basic building block of microstructures. This research has produced a benchmark against which theories and computer simulations that predict microstructures can be rigorously tested.

This information would not be available to us today without the help of NASA, and its programs in space. The International Space Station allows us to pursue these kinds of breakthroughs, especially in light of the fact that these experiments will be conducted over a much longer period of time than those done on the space shuttle.

By funding the International Space Station, we will invest in an investment that is sound to pay off. I urge you all to vote against this amendment, and for our future.

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

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

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding. I specifically wanted to respond to the gentlewoman from Texas as well. I appreciate both of your participation in this.

The gentlewoman from Texas mentioned very briefly the international partnership that is involved here. We have not discussed that very much this evening, and I think certainly we should. The fact that our international partners in the European space agency are being so cooperative, the fact that we do have an ongoing relationship with Russia in spite of their economic difficulties in which they are putting the money that they are obligated to in the pipeline. The reality that this is now a world Space Station that provides our future hope for man’s work in space, that has so much potential in terms of economic and medical and other kinds of breakthroughs, is a very important item, and I appreciate very much both of you participating in it.

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

Mr. Chairman, I rise in strong opposition to the Roemer amendment and I encourage all my colleagues to vote “no.” We have been engaging in this debate for many, many years, and it is true that each year more and more Members vote against killing the Space Station and in support of continuing this project. The reason I believe is obvious. This project has a tremendous potential to yield incredible
benefits to mankind. Balancing the budget is a very, very noble task and it is certainly something that is important to our children. Indeed, it is a very good thing for us to do that. But I can tell you from my experience of talking to educators on the floor of this House, they recognize balancing the budget is good and fixing Medicare is good and cleaning up the environment is good, and even improving education is good, nothing excites them more than telling them and teaching them about our space program and the Space Station and its potential.

Indeed, I have talked to teachers all over this country, and they all invariably tell me, teachers of math and science, that there is nothing that motivates their kids and their class more than the Space Station and talking about the manned space program.

Here is a diagram of the Space Station when it will be fully assembled and complete. I am very happy that the chairman of the committee spoke about the international partners involved with this. We have the Europeans who have spent over $6 billion; the Japanese, $4 billion; the Canadians, $1 billion.

This project is on the verge of being a huge success. We have no idea of the potential spin-off benefits to mankind. Indeed, I have talked to teachers on the floor of this House 1 month ago about a product that is a spin-off of our space program called Quick Boost that has the potential to improve the efficiency of air conditioning units all over this country and has the potential to save energy costs equivalent to the entire cost of our manned space flight program from its very beginnings, from the beginning of the Mercury Program to this date.

I encourage all of my colleagues to, again, resoundingly reject the Roemer amendment and vote “no” on the Roemer amendment.

Mr. Chairman, I yield to my very good friend and colleague, the gentleman from the great State of Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Chairman, I thank my friend, the gentleman from Florida for yielding. I want to associate myself with his remarks. I, too, rise in opposition to the Roemer amendment.

This amendment has made a national goal of reexploration of space. The responsibility for this is that of the international partners. We have had to engage in a tough balancing act, but they have done it. I thank them for it. We in Alabama are proud of them for having done it.

I say let us get off of NASA’s back. We have made them dot I’s. We have made them cross T’s. We held the NASA employees hostage. It is time for us to move forward. Oppose the Roemer amendment.

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

Mr. WELDON of Florida. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I appreciate the gentleman yielding to me.

I want to just say to my colleagues as well as all who might be interested in this discussion, no one has made the contribution that the gentleman from Florida has regarding this effort. His consistent and intensive focus upon the space shuttle, which he has in space, and the work that involves the Station itself is very much appreciated, and he has made a very significant difference in the effectiveness, not just in our discussion, but also the rapidity of which we are moving forward in this program.

Mr. WELDON of Florida. Mr. Chairman, I want to add one more thing. I have gone into the Space Station processing facility of Kennedy Space Center, and I have gone into the first elements of the Space Station. We have made a national goal of reexploration of space, on more basic research and we cannot do that.

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

Mr. Chairman, I rise in support of the Roemer amendment. I do so reluctantly because I have always been a supporter of the space program, and I believe that we have a bright future for manned exploration in space. But I think that this amendment does not make sense to continue with this project at this time on several bases. First, I want to associate myself with the remarks of the gentleman from Wisconsin (Mr. Obey) in terms of the priorities within this budget now in terms of our social programs here at home.

Second, however, let us talk about the space program. I fear we are repeating a mistake we made in the 1970s and 1980s. Santayana defined a fanatic as one who redoubles his efforts when he has forgotten his purposes. I think that characterizes the Space Station.

We are told that the Space Station is not only justified for manned exploration. But we do not have a program for manned space exploration. If we had made a national goal of reexploring the moon, of going back to the moon and starting to exploit its natural resources, of having a manned program to Mars, or Martian surface support such a program; and then the Space Station would make sense as part of it.

But every justification for the space program that I have seen, save one, can equally or better be done without the expenditure and the Space Station. That one is research on the long-term physiological effects of manned space flight. For that, we will need a Space Station. But we do not need that until we make the commitment to a manned space flight to Mars, and then we should do that.

This program is eating up NASA’s budget. We saw the same thing with the space shuttle. Why are we launching satellites on Chinese rockets? Forget the controversy for the moment of the President and President Bush and Reagan about the waivers, but why do our industries want to launch satellites on Chinese rockets? Because they are cheaper. How about $200 million to launch cheaper.

Why did the United States not develop cheap space rockets, cheap launching? Because everything in that budget was devoted to the space shuttle in the 1970s and 1980s, a dead end.

Our space rockets today are still based on the Atlas and Titan ICBMs in the 1960s. The Titan IV is our biggest launcher based on the ICBM. The Titan first launched in 1960 or 1961. Why? Because we had no money to develop cheaper commercially viable space launching vehicles because all our money was going into the shuttle.

We should be spending money now, more money on the scientific exploration of space, on more basic research that will have the spin-offs and the benefits for medical science. We should be spending more money on programs like the X-33 to reduce the cost per pound of going into orbit.

Here, we have reduced that cost by a factor of 10 or 100, then we can look again at a Space Station, because then the cost of developing a Space Station will be much less because it will not cost that much to get the material into orbit. That ought to be our priority.

This Space Station is too little and too early. It is too little because why are we spending $100 billion for an eight-person capacity Space Station when the Mir Space Station held six people. It is too early because it is not necessary because of the X-33 research, perhaps 10 years from now, to launch the components into space cheaply.
If the United States were pursuing a properly targeted space program, we would now have a crash program to develop cheap launch vehicles so that the Hugheses and Loralis and General Dynamic's of our country would want to launch their satellites into our rocket because they are cheaper and more efficient, and we would not have to worry about the security with the Chinese.

We are paying for the mistakes of the 1970s and 1980s, and now we are going to repeat that mistake on a larger scale. The space shuttle is a beautiful as it is, was a blind alley because what did it get us that we did not have? It did not reduce the cost of poundage into orbit which was the promise. It diverted us from the proper courses we are to make.

At this point, we are to be spending some of this money on low-income housing units, some of this money on school, some of this money on low-income heating. We ought to be spending more on cheaper, more efficient rockets, for current satellite launchers. We ought to be spending more of the money on developing the capability of launching large payloads into space at a much lower unit cost so that it makes sense for our commercial private sector to get more heavily involved with less subsidy.

Finally, let me say this is distorting our relationship with our foreign friends.

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

Mr. Chairman, I rise in strong support of the Roemer-Camp amendment to end this black hole of fiscal irresponsibility known as the International Space Station, but I do so very sadly. Mr. Chairman, I commend the gentleman from Illinois, Mr. ROEMER, and the gentleman from Michigan, Mr. CAMP, for the courage that they are showing by offering this amendment.

I would venture to guess if this issue was polled in the general and abstract by the GAO this year to be around $100 billion, a program that was started off at $8 billion now estimated from the proper courses we are to take another look at this and see if this is the right direction we are going in.

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

Mr. Chairman, why on earth do we spend money in space?

Mr. Chairman, when a young President, John Kennedy, described his vision in 1961 of landing a man on the moon, he encountered also many skeptics. Some said it could not be done. Some said it would cost too much money. But when I watched Neil Armstrong take his first step on the moon eight years later, I knew the naysayers were wrong, and so did my high school students, who huddled around the television set with me that unforgettable day. I saw the gleam in their eyes that inspired them to become our future engineers and future scientists.

So why on earth do we spend money in space? So our kids will have a dream to dream. Space exploration has evolved over the last 30 years to more than just romantic notions of collecting moon rocks and taking pictures of other planets in our solar system. Scientific studies conducted in space have led to thousands, if not hundreds of thousands of practical applications here on earth, as this graph here illustrates.

In fact, financing research projects in space is one of the best investments our Nation can make. For each tax dollar we spend in space, we get a $9 return here on earth in new products, in new technologies, in new improvements for millions of people around the world.

It would take too long to recount the many advances in agriculture, business and medicine that are a direct result of manned space exploration. Instead, let me tell you about some real people who have already benefitted from the discoveries made in space for the last three decades.

Let me start with someone in the district of the gentleman from Indiana...
(Mr. Roemer). Weather satellite storm prediction systems and long-range weather forecasts developed during space missions helped Brent Grabley, the director of the Elkhart County, Indiana, Office of Emergency Management, warn of hazardous flash floods and dangerous tornados before they destroy people’s homes and take their lives, a direct result of manned space exploration.

And in the hometown of the gentleman from Michigan (Mr. Camp), Midland, Michigan, the fire chief there, Dan Hargarten, he uses protective clothing made possible due to space research to help protect his crew from harm as they battle destructive fires, and technological advances in breathing apparatus are studied in space and will allow 68 brave Michigian fire fighters, all volunteers, to battle Florida’s fire storms without losing their lives, another direct result of manned space exploration.

Another district of the gentleman from New York (Mr. Solomon), the “After Breast Cancer” support group meets every Monday evening to share their experiences fighting breast cancer. Well, many cancer survivors are living longer, fuller lives, thanks to early detection of cancer cells made possible by CAT scan technology. You guessed it, a direct result of manned space exploration.

So why on earth should we spend money in space? For the sake of my sister, Mary Jo, and countless others who are confined to wheel chairs regain their mobility.

Mr. Chairman, there are those who feel that we do not need men and women, as you have heard, in space, and that their duties could be replaced by robots. Of course, there are also those who say the same thing about Congress.

So why on earth do we spend money in space? For the sake of my sister, and your children’s children; because every dollar we spend on a space program yields $9 in returns here on earth; and because that young President, to warn his community during his speech.

NASA researchers are making great strides in, for example, neurobiology, that could help my sister, Mary Jo, and countless others who are confined to wheel chairs regain their mobility.

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the role that the gentleman from Indiana (Mr. Roemer) has played over the years in voicing his objections to the Space Station. He showed great understanding and knowledge of the space program, great tenacity.

Mr. Chairman, the system is such that he may well end up being chairman of the Subcommittee on Space and Aeronautics in the fairly near future, and he may have an opportunity to directly exercise the kind of control over the Space Station that he is trying to do indirectly through amendment.

I do not agree with his position, and so I rise in opposition to his amendment. I would like to point out that the space program has never been judged in terms of its immediate, measurable benefits. Several mentions have been made of Alan Shepard's flight back in 1962, and of President Kennedy's announcement of the Apollo program shortly after that.

There is no way on earth we can justify the Space Station program on economic grounds. It was a one-time effort. It was a crash effort. It was done out of fear that the Russians, who had already excelled in several things, they had launched the first satellite, they had sent a man into space, and it was the fear in America that we had irrevocably lost our technological leadership of the world. That led the President to announce that we would send a man to the moon.

We created the Apollo program. The huge Saturn rockets, we have never used them again. We have lost the plans to them. We would not know how to build another one of them. What remains is in some museum somewhere. And after we had successfully completed the program, then we sat back and said what will we do next?

It took us a little while to decide maybe we should go for a space transportation system instead of a grandiose plan for going to Mars. The budget of NASA at that time during the 1960s was three times what it is today. It has gone down steadily since that period of time, and I regret that. I frequently mention that NASA is going downhill more than I would like.

There was no economic benefit from that. It was merely a psychological benefit restoring the confidence of America in their ability to cope with Russia and the rest of the world.

Now, quite the opposite situation with the Space Station. Incidentally, the Space Station did not develop as a program to beat the Russians, as the gentleman from Massachusetts (Mr. Frank) mentioned earlier. The Russians already had a Space Station when we decided that we were going to build a Space Station.

We recognized that if we had any intention of human role in space, that it had to be based upon the ability to create space life and hope in those structures and to make use of those structures in zero or relatively zero gravity for the purpose of determining the sustainability of life in space and conducting research that would be beneficial in space.

We did not even bring back a bag of rocks from the moon that we could look to and say this is the economic benefit we have reached. The Russians went on the moon, I picked up a bag of rocks, and brought them back. We subsequently gathered a few, but they were not nearly as many as the Russians and so they outdid us on the one economic benefit, collecting rocks. And there was no gold or diamonds in those rocks either.

But what we have been almost unconsciously doing is voicing the aspiration of the human race to move beyond the bounds of earth into a new environment that is universal. This is something that attracts a huge amount of people. We cannot quantify it. We cannot measure the economic benefit. It is a matter of satisfying the demands of the human spirit; the same thing in a different sense that drove us to send the Apollo to the moon and land the first humans on the moon.

Incidentally, those who know the Shepard story well recognize that he had one first. He was not the first man on the moon. He was the first man to hit a golf ball on the moon.}

**1300**

The CHAIRMAN. The time of the gentleman from California (Mr. Brown) has expired.

(On request of Mr. Lewis of California, and by unanimous consent, Mr. Brown of California was allowed to proceed for 2 additional minutes.)

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

Mr. Brown of California. I yield to the gentleman from California.

Mr. Lewis of California. Mr. Chairman, I wanted to express my deep appreciation for not just the gentleman's commentary this evening but for the initiative of this body. It is the initiative of these programs and understanding them perhaps better than anybody else in the House.

The reality is that Space Station is not just a toy out in space. I have heard several of our colleagues this evening talk about how they support NASA, they support our probe in space, they support our work in space. And yet the reality is that if man is going to be in space, we need to learn many of these things that we are learning by this process. It is not just a question of health, things that we learn from people being in zero gravity, etcetera. It is building things in space. Having men and women work in space. Indeed, if NASA is going to carry forward that Horizon project that is the dream of our people, that new horizon, it will not be done without an effective Space Station.

The gentleman's work has been extremely helpful and I wanted him to know I appreciate him.

Mr. Brown of California. And I want the gentleman to know I appreciate his continued support and that of his colleagues on the Committee on Appropriations.

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

Here are some facts on the Space Station. Significant development progress has been made on the International Space Station. Seventy-five percent of the development milestones have been completed. The first two elements of the Space Station are ready and being prepared for launch. Over 400,000 pounds of flight hardware have been built. By the end of 1998, NASA and its international partners will have built over a half million pounds of flight hardware. And the first two elements of the Space Station will be in orbit.

The return of U.S. astronaut Andy Thomas marks the successful conclusion of the Shuttle-Mir program. Ten rendezvous and nine docking missions, and over 950 days of U.S. astronaut experience in the United States invaluable experience in long-term space operations which has prepared NASA to more effectively conduct permanent operations aboard the International Space Station.

Our shuttle crews have flown to the first three assembly flights of the International Space Station have already been selected and begun training. The Space Station assembly crews have already been selected. The first four crews to live and work aboard the Space Station have been selected and are actively training in Russia, the United States, Europe, and Canada.

The International Space Station Research Plan has been adopted and published and selection is underway for what will eventually be 900 principal investigators conducting research aboard the Space Station. NASA remains fully committed to meet Space Station research requirements and has included full funding for enhanced research capabilities in the budget of the program.

The Research Plan outlines the use of the world class International Space Station laboratories. Space Station capacity for data transfer has been significantly updated from the original plan.

November 20th, 1998 is the revised launch date for the U.S.-owned Russian-built control module. It will follow four crews to live and work aboard the launch of Unity, the U.S. node. Launch of the Russian Service Module is scheduled for April 1999. Assembly will be complete in January 2004.

The Russian-built service module is 95 percent complete and has been shipped for final outfitting and testing. As a hedge against Russian Service Module delays, NASA has modified the Russian-built control module and is developing a U.S. Interim control module in the event additional Service Module delays are encountered.

Although the recently issued report of the Cost Assessment and Validation Task Force, headed by Jay Chabrow,
The CHAIRMAN. The time of the
Mr. KUCINICH. Mr. Chairman, the
(By unanimous consent, Mr. KUCINICH
was allowed to proceed for 1 additional
minute.)
Mr. KUCINICH. Mr. Chairman, the
stars which emblazon our flag, which
ring this chamber and which surround
that eagle that looks down on us every
day, those stars could also represent
the stars that we reach for.
Our future as a nation is certainly
about what we do on this earth, but it
is also about the sky above. It is also
about the human heart exploring the
unknown. Americans know this. That
is why they support the space program,
and that is why they are hoping this
Congress is going to support the Inter-
national Space Station.
Mr. GREEN. Mr. Chairman, I move
to strike the requisite number of words.
Mr. Chairman, I do not like my whole
5 minutes, but I want to thank
my colleague from Ohio and all the
speakers this evening, because I think
what they are talking about is what
really America is about. And I want to
thank my colleague from Wisconsin,
who is also part of this district, that
he would be for it.
Well, I do represent the Houston
area, but I do not represent part of the
NASA area. In fact, my joke is when
somebody in my district gets a job at
the Space Station, or NASA, in Clear
Lake, they actually move to the dis-
tRICT of the gentleman from Texas (Mr.
LAMPSON) or the district of the gen-
tleman from Texas (Mr. DeLAY). They
are not moving closer to their jobs,
because they move closer to their jobs.
I rise in opposition to the Roemer
amendment because it strikes the fund-
ing for the International Space Sta-
tion. The International Space Station
represents the future of space explo-
ration for our country. It represents a
high-tech lab whose innovations will
have countless applications in the
daily lives of Americans. Whether we
live in one of those districts that have
the module being built or not, it rep-
resents an era of international coopera-
tion that everyone will benefit from.
We heard tonight the talk about how
the Russians may not be able to do
t heir part. It is not just the Russians,
it is lots of other countries, our near-
ighbors in Canada and Japan and in Eu-
rope.
To date, the International Space Sta-
tion has been a model of international
cooporation and responsible manage-
ment. If Congress does undermine the
mission without an unexpected reduc-
tion, it will represent a major reversal in the commitment
made to the program's stability over
the past few years and it will be a
betrayal of our entire international part-
ners.
The International Space Station is
well on its way to assembly, with the
first of the hardware elements already
in the final stages of preparation for
launch in November of this year, just
5 months away.
Mr. ROHRABACHER. Mr. Chairman,
I have in my hands a 5-minute speech
praising the gentleman from California
(Mr. Lewis) who does have a terrific job
this year in cooperating with the au-
thorizers. We have had such a good re-
lationship that I wanted to praise him
in this speech. I also in this 5-minute
speech talk about the NASA budget,
but instead I will include this in the
RECORD.
Mr. Chairman, today the Appropriations
Committee has brought before the House a
bill which, a bill which, among other things,
funds our nation's civilian space agency,
NASA, for fiscal year 1999.
As chairman of the authorizing subcommit-
tee for NASA, I think it's fair to say that there
has not always been perfect agreement be-
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research, instead of the Station program office. The scientists who will use our national laboratory in space should manage their research funding, not the engineers who are building the lab.

Next, the report provides additional funding for human research, scientific, and technology projects in NASA. H.R. 4194 increases by $20 million NASA's planned $5 million funding level for Space Solar Power research, and provides an additional $1.6 million for the Near Earth Asteroid Tracking program.

Finally, the report’s amendment provides an increase of $30 million for the program that NASA Administrator Dan Goldin declared was his top priority for additional funding above the President’s request. This money is for Future-X, a program of additional experimental launch vehicles to carry on the progress we are making with the X-33 and X-34 projects. Mr. Chairman, reducing the high cost of space transportation has been my top space priority since I joined the Congress and the Space subcommittee in 1989. By providing full funding for the X-33 and X-34 programs, and this funding for Future-X program, we are taking steps to ensure that there will be a continuing stream of improved technologies to both our commercial space industry and to our military. I am particularly gratified that the Committee directs that half of the Future-X budget be spent in cooperation with the Air Force’s military spaceplane program. This honors the President’s Space Transportation Policy and Administrator Goldin’s testimony to my subcommittee that NASA would develop new space transportation technologies for and in cooperation with the Air Force.

I must admit that there is one small item in the Committee report which gives me some pause, and that is the $10 million for Liquid Flyback Booster studies. Over the past year or so I have found that the Liquid Flyback Booster concept is not so much an upgrade of the Space Shuttle as it is a stalling horse for a mission to send astronauts to Mars. Well, this Congress has no intention of approving the hundreds of billions it would cost to send astronauts to Mars. Nor, would we want to spend taxpayers’ money to prolong a NASAs-owned and-operated Space Shuttle if there are lower cost commercial alternatives, including a privatized Shuttle system.

I would hope that in conference the Chairman of the Subcommittee might work to specify that any funding for studies of Liquid Flyback Boosters could come from the $20 million NASA has already provided for Space Transportation Architecture Studies and not from critical technology efforts like X-33 and Future-X.

But let me once again state my strong support for the rest of the NASA appropriation. In summary, H.R. 4194 sends the Senate and the Administration a unified, two-part message from the House Authorizers and Appropriators. We both support Mr. Goldin’s emphasis on scientific research, his interest in space commercialization, and his leadership on space transportation technology. But we are also united in saying that the Space Station program must be fixed, and fixed now.

Mr. BENTSEN. Mr. Chairman, I rise in strong opposition to the Roemer-Camp amendment to eliminate funding for NASA’s International Space Station.

Some have argued that it would be fiscally prudent to eliminate the space station. Nothing could be further from the truth. In fact, it would be terribly imprudent to kill the program. We have already invested more than $20 billion in the space station. Our 12 international partners have spent more than $5 billion. Two hundred tons of hardware has been built and first element launch is less than six months away. To eliminate the program now, after so much has been invested and so much work has been done, would be the height of irresponsibility by allowing our investment to be wasted.

The International Space Station is a worthwhile investment in exploration and science, an investment in jobs and economic growth, and most of all, an investment in improving life for all of us here on earth. The space program and experiments conducted on the space shuttle have made remarkable contributions to medical research and the study of life on earth. The space station is the next logical step: Let me highlight some of the station’s potential for contributing to medical advancements, for example:

Space station researchers will use the low-gravity environment of the space station to expand our understanding of cell culture, which could revolutionize treatments for joint diseases and injuries;

The space station will provide a unique environment for research on the growth of protein crystals, which aids in determining the structure and function of proteins. Crystals grown in space are far superior than those on earth. Such information will greatly enhance drug design and research into cancer, diabetes, emphysema, parasitic infections, and immune systems disorders;

The almost complete absence of gravity on the space station will allow new insights into human health and disease prevention and treatment—including heart, lung, and kidney function, cardiovascular disease, bone calcium loss, and immune system function;

I share Congress Indiana’s concern that continued Russian participation in this project needs to be carefully examined. The economic difficulties Russia is currently experiencing have caused several unfortunate delays in their delivery of certain space station components and this needs to be scrutinized. We need a backup plan to move forward without the Russians if necessary. But this partnership deserves every chance to succeed because of the experience and expertise the Russians bring to the table and the foreign policy benefits of continuing this partnership.

Mr. Speaker, the International Space Station is vital to continued human manned presence in space and I would urge the defeat of this amendment.

Mr. Speaker, the International Space Station is vital to continued human manned presence in space and I would urge the defeat of this amendment.

The CHAIRMAN (Mr. COMBEST). The question is on the amendment offered of the gentleman from Indiana (Mr. ROEMER). The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROEMER. Mr. Chairman, I demand the recorded vote.

The CHAIRMAN. Pursuant to House Resolution 501, further proceedings on the amendment offered by the gentleman from Indiana (Mr. ROEMER) will be postponed.

Mr. WELLER. Mr. Chairman, I would like to offer my support for the FY99 VA–HUD Appropriations bill.

A project in the VA–HUD bill, called TARP, is extremely important to not only the people of the 11th congressional district of Illinois, but the entire Chicago Metropolitan Area. This bill contains $6.5 million for the Environmental Protection Agency (EPA) in fiscal year 1999 to get toward construction of the Calumet System TARP—the segment that directly affects my constituents.

During the summer of 1996, floods plagued the South Suburbs of Chicago. Frequent flooding in the Chicago area causes disruptions in major expressways; and rainwater and raw sewage back up into the basements of over 500,000 homes and contaminate local drinking water supplies.

As you know, TARP is an intricate system of underground tunnels, pumping stations and storage reservoirs to control flooding and combined sewage pollution in the Chicago Metropolitan Area. It is important to note that TARP will remove four times the amount of pollution as the City of Boston’s projected removal—approximately 300 million. To date, 93 miles of control tunnels have been completed, or are under construction, and 16 miles of tunnels have yet to be completed. To the projects’ merit, the completed segments of TARP have helped to eliminate 86 percent of the combined sewage pollution in a 325 square mile area.

While we tend to think of this project as a critical flood protection measure, the truth is that the water protection is just as important. Since TARP has come on-line, we have seen a striking improvement in the quality of our waterways, bringing fish—and commerce—back to our rivers. Probably the biggest protection TARP brings is the return of our drinking water supply. Lake Michigan, to good health. By protecting Lake Michigan from raw sewage, TARP provides us with fresh drinking water and that our children will be protected.

I believe that Chicago and the South Suburbs cannot afford any more delays in completing this project. In fact, the flooding that occurred this winter filled the TARP system to capacity and forced the release of 4.2 billion gallons of combined rainwater and sewage into Lake Michigan. This must be prevented.

Home and business owners are suffering, our drinking water supply is at risk, flood insurance premiums are increasing while property values are decreasing. The annual damages sustained by the flooding exceed $150 million. If this project were finished these damages could be eliminated, not to mention the disas
ter relief funds that will point out that TARP was judged by the EPA twice as the most cost-effective plan to meet the enforceable provisions of the Clean Water Act. The South Suburbs have built a strong base of local support for this vital project. That is why it is essential that we receive the fiscal year 1999 funding to continue construction of TARP.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 4194 and would like to thank the distinguished gentleman from California and Chairman of the Appropriations Subcommittee on VA, HUD, and Independent Agencies [Mr. JERRY LEWIS] and the distinguished gentleman from Ohio and Ranking
Mr. Chairman, this Member rises in support of H.R. 4194 and urges his colleagues to support this measure.

Mr. Chairman, I rise today in opposition to the final passage of H.R. 4194, the Department of Veterans Affairs and Housing and Urban Development, Transportation, and Independent Agencies Appropriations Act for Fiscal Year 1999. I object because this bill fails to include any funding for the Americorps or other initiatives administered by the Corporation for National Service which are funded annually in this legislation. When reduction of more than $5 million in funding for the Volunteers in Service to America (VISTA) program and the freeze in spending for the National Senior Volunteer Corps recommended in the Appropriations Committee’s Report on the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act for Fiscal Year 1999, the attack on the highly successful programs administered by the Corporation for National Service included in this bill will decimate opportunities to improve the lives of every American through strong community initiatives.

Over the years I have met countless activists as well as ordinary American citizens in the Second Congressional District who take heroic steps on a daily basis towards improving their community and their own lives. As a result, the Second Congressional District and my home state of Mississippi have made substantial progress in improving the standard of living for many of their residents. However, both the Second Congressional District and Mississippi still contain some of the poorest areas in the nation.

We must recognize that Mississippi’s economic status can never be permanently improved by either ignoring the current state of affairs or by simply writing a check. For too long policy makers here in Washington and elsewhere have followed one of these two courses of action. There have been rare exceptions—initiatives to provide not just economic assistance, but also the inspiration for people to join with their neighbors in the effort to improve their community. As every hardworking American knows, no one laboring in Washington and elsewhere has ever felt as well when he feels that others are willing to stand there beside him and suffer through the task at hand. The Americorps, which is administered by the Corporation for National Service and normally funded in this bill, is perhaps the best example of a program which provides a tangible, uplifting presence in the numerous communities where it is active.

There are more than five hundred Americorps volunteers in Mississippi today who have partnered with community leaders to provide hands-on assistance in improving access to everything from child care to literacy instruction. Most importantly, the Americorps volunteers’ stirring example has inspired thousands of Mississippians to enter community service as well. Today there are more than 25,000 people of all ages and backgrounds who are helping to solve problems and build stronger communities in the 48 projects across Mississippi which are sponsored by the Americorps and other Corporation for National Services initiatives.

Many of my colleagues on the other side of the aisle—including some of my friends from Mississippi—will say the Corporation for National Service and the Americorps program are wasteful or too bureaucratic. Yet I do not think any of us could find another initiative funded by the federal or state governments today which encourages 29,000 people to serve their nation and their community for a total cost of less than $7 million.

Nonetheless, many former critics have finally started to see the positive benefits of the Corporation for National Service’s work. Governor Kirk Fordice of Mississippi, widely regarded as one of the most conservative governors in the nation, made the following statement in support of the Corporation for National Service’s efforts while visiting with Learn and Serve America students at the regional service-learning conference in Biloxi, Mississippi:

As you know from your first hand volunteerism, service-learning offers the opportunity for today’s young people and tomorrow’s leaders for National Service, I encourage any of your hands-on experiences reinforce what you are learning in the classroom, promoting civic responsibility and showing that citizens working together are a powerful force.

After the Americorps was created in 1993, it quickly adopted the straightforward motto of “Getting Things Done.” In the opinion of both myself and thousands of residents of the Second Congressional District who have benefitted from this program, the Americorps truly has been “Getting Things Done For Mississippi.” For those who might doubt the effectiveness or importance of the Corporation for National Service and its Americorps program, the following is a complete list of all the active projects supported by the Corporation for National Service in Mississippi. Instead of making speeches in the marble halls of Washington about bureaucracy, inefficiency, disorganization or a host of other mistaken descriptions of the Americorps and the activities of the Corporation or a host of other mistaken descriptions of the Americorps and the activities of the Corporation for National Service, I encourage any of my skeptical colleagues to visit these communities and talk with the beneficiaries of its work.

80 AmeriCorps Volunteers participate in the Delta Service Corps University Center for Community in Cleveland
40 AmeriCorps Volunteers participate in the Delta Reads Partnerships at Delta State University in Cleveland
6 AmeriCorps Volunteers participate in the Mid-South Delta LISC AmeriCorps in Greenville
20 AmeriCorps Volunteers participate in the Mississippi Action for Community Education in Greenville
AmeriCorps Volunteers participate in the Harrison County Human Resources Agency in Gulfport
2 AmeriCorps Volunteers participate in the South Mississippi Family/Child Center in Gulfport
AmeriCorps Volunteers participate in the Desoto County Literacy Council Inc. in Hernando
100 AmeriCorps Volunteers participate in the Volunteer Assistant Teachers Train to Become Teachers in Jackson
30 AmeriCorps Volunteers participate in the AmeriCorps Assist Program in Jackson
30 AmeriCorps Volunteers participate in the Campus Link in Jackson
34 AmeriCorps Volunteers participate in the Campus Link in Jackson
16 AmeriCorps Volunteers participate in the Metro Jackson Service Coalition in Jackson
16 AmeriCorps Volunteers participate in the Partners in Readiness in Jackson
2 AmeriCorps Volunteers participate in the Big Brothers/Big Sisters of the Tri-County Area in Jackson;  
3 AmeriCorps Volunteers participate in the Governor's Office of Literacy in Jackson;  
9 AmeriCorps Volunteers participate in the Mississippi Association of Cooperatives in Jackson;  
3 AmeriCorps Volunteers participate in the West Jackson Community Development Corporation in Jackson;  
7 AmeriCorps Volunteers participate in the St. Andrew's Mission, Inc. in McComb;  
39 AmeriCorps Volunteers participate in the Teach for America Mississippi Delta in Oxford;  
24 AmeriCorps Volunteers participate in the InterACT in Oxford;  
20 AmeriCorps Volunteers participate in the Literacy for Lee County: Young Readers Today in Tupelo;  
6 AmeriCorps Volunteers participate in the We Care Community Services, Inc. in Vicksburg;  
5 AmeriCorps Volunteers participate in the Yazoo Community Action, Inc. in Yazoo City;  
10 Florida Panthers AmeriCorps Volunteers participate in the Biloxi School District in Biloxi;  
250 Learn and Service America Volunteers participate in Rust College in Holly Springs;  
6 Learn and Service America Volunteers participate in the Jackson School District in Jackson;  
700 Learn and Service America Volunteers participate in the Mississippi Department of Education statewide;  
Learn and Service America Volunteers participate in the Mississippi Commission for Volunteer Service statewide;  
425 National Senior Service Corps Volunteers participate in the Hancock County RSVP in Bay St. Louis;  
364 National Senior Service Corps Volunteers participate in the Hancock County Volunteer Program in Clarksdale;  
315 National Senior Service Corps Volunteers participate in the Lowndes County RSVP in Columbus;  
114 National Senior Service Corps Volunteers participate in the Jones County FGP in Ellisville;  
388 National Senior Service Corps Volunteers participate in the Harrison County RSVP in Gulfport;  
43 National Senior Service Corps Volunteers participate in the SCP of Harrison County in Gulfport;  
72 National Senior Service Corps Volunteers participate in the SCP of Sunflower and Bolivar Counties in Indianola;  
285 National Senior Service Corps Volunteers participate in the Capital Areas RSVP in Jackson;  
212 National Senior Service Corps Volunteers participate in the Attala County RSVP in Kosciusko;  
314 National Senior Service Corps Volunteers participate in the Laurel-Jones County RSVP in Laurel;  
186 National Senior Service Corps Volunteers participate in the Simpson County RSVP in Mendenhall;  
57 National Senior Service Corps Volunteers participate in the FGP Lauderdale County in Meridian;  
519 National Senior Service Corps Volunteers participate in the RSVP Meridan/Lauderdale County in Meridian;  
400 National Senior Service Corps Volunteers participate in the RSVP Adams County in Natchez;  
84 National Senior Service Corps Volunteers participate in the Lafayette County FGP in Oxford;  
280 National Senior Service Corps Volunteers participate in the Lafayette County RSVP in Oxford;  
30 National Senior Service Corps Volunteers participate in the MDHS Jackson County SCP in Pascagoula;  
370 National Senior Service Corps Volunteers participate in the Lee and Calhoun Counties RSVP in Tupelo;  
79 National Senior Service Corps Volunteers participate in the Hinds/Rankin FGP in Whitfield.  
Mr. Chairman, the people who participant in the programs I have just mentioned want to see genuine change in their community and are willing to take action to bring about results. What better values could any of—Democrats or Republican—want to sponsor? I urge Members to support this bill; we should not be forced for yet another year to rely on the Conference Committee to restore funding for the Americorps and the Corporation for National Service. Let us support the Americorps and Corporation for National Service’s volunteers across the nation so they can continue “Getting Things done” in their community.  
Mr. ENSIGN. Mr. Chairman, I rise today to voice concern about what I consider an inappropriate use of Community Development Block Grant funding. Last late year, it was revealed that the Reno-Sparks Indian Colony had decided to use $450,000 of the funding they received from the Indian Community Development Block Grant program for the explicit purpose of constructing a “smoke shop” in Verdi, Nevada. Regardless of one’s position on tobacco use or taxes, it seems clear to me that at a time when there is so much debate surrounding the issue of teen smoking, the tobacco industry, and tobacco vendors, taxpayer dollars should not be spent on the construction of smoke shops in our communities.  
It is my understanding that the goals of the Community Development Block Grant Program are to provide financial resources to communities for public facilities and planning activities which have a direct, positive impact on the health and safety of that community’s residents. Everyone knows that smoking is hazardous to one’s health and can cause lung cancer. Smoking causes fully one sixth of all deaths in the United States each year—more than alcohol, all illicit drugs, AIDS, guns, automobile-related deaths, and all forms of air pollution COMBINED. With this in mind, how can we possibly allow money intended to be used for the betterment of communities to be used instead for the construction of smoke shops. I would like an explanation from HUD as to how this fits into the statute governing the Community Development Block Grant program.  
Native American communities have a right to profit from business ventures but I don’t think the federal government should assume the role of helping smoke shops compete with independent small business ventures such as shops and convenience stores which also rely on tobacco sales.  
Mr. Chairman, this grant came to my attention only recently and has caused concern for private small businesses and citizens in Verdi, Nevada. It was my desire to introduce an amendment today to recapture these federal dollars before they are spent, but I understand how carefully this bill has been crafted and do not wish to threaten the delicate balance you have achieved.  
It is my sincere hope that the Department of Housing and Urban Development will ensure that taxpayer funds are expended in a manner consistent with the national concern on youth tobacco use. There are many ways to ensure that Native Americans are able to develop profitable businesses capable of providing the resources necessary for tribal needs without taxpayer-funded tobacco smoke shops.  
Mr. LEWIS of California. 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. SOLONOM) having assumed the chair, Mr. Combast, 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. 4194) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes, had come to no resolution thereon.  

REPEAT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4250, PATIENT PROTECTION ACT OF 1998  
Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 105-643) on the resolution (H.Res. 509) providing for consideration of the bill (H.R. 4250) to provide new patient protections under group health plans, which was referred to the House CALENDAR and ordered to be printed.  

PERSONAL EXPLANATION  
Mr. GREEN. Mr. Speaker, during rollcall votes 319 through 322, last night and today, I was in my district on official business. Had I been present, I would have voted “no” on rollcall 319; “yes” on rollcall 320, “no” on rollcall 321; and “yes” on rollcall 322.  

COMMUNICATION FROM HON. PETER T. KING, MEMBER OF CONGRESS  
THE SPEAKER pro tempore laid before the House the following communication from the Honorable Peter T. King, Member of Congress:  

H6277  

HOUSE OF REPRESENTATIVES,  
Hon. Newt Gingrich,  
Speaker of the House,  
The Capitol, Washington, D.C.  

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.
Communication from Hon. Carolyn McCarthy, Member of Congress

The Speaker pro tempore laid before the House the following communication from the Honorable Carolyn McCarthy, Member of Congress:


Hon. Newt Gingrich,
Speaker, House of Representatives,
Washington, DC.

Dear Mr. Speaker:
This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,
Carolyn McCarthy, Member of Congress.

Communication from Hon. GARY L. ACKERMAN, Member of Congress

The Speaker pro tempore laid before the House the following communication from the Honorable GARY L. ACKERMAN, Member of Congress:


Hon. Newt Gingrich,
Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker:
This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the Eastern District of New York.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,
GARY L. ACKERMAN, Member of Congress.

Leave of Absence

By unanimous consent, leave of absence was granted to:
Mr. Markey (at the request of Mr. Gephardt) for today after 4 p.m., on account of personal business.
Mr. Ford (at the request of Mr. Gephardt) for today, on account of personal business.
Mr. Markey (at the request of Mr. Gephardt) for today and Friday, July 24, on account of a death in the family.
Mr. Brady (at the request of Mr. Gephardt) for today after 1:15 p.m., on account of official business in the district.

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. Goss) to revise and extend their remarks and include extraneous material:)
Mr. Wicker, for 5 minutes, on July 24.
Mr. Weldon of Pennsylvania, for 5 minutes, on today.
Mr. Collins, for 5 minutes, on July 24.
Ms. Ros-Lehtinen, for 5 minutes each, on July 28, 29, and 30.

Extension of Remarks

By unanimous consent, permission to revise and extend remarks was granted to:
Mr. Hastert and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $4,235.00.

Extension of Remarks

(The following Members (at the request of Mr. Kucinich) and to include extraneous material:)
Mr. Markey.
Mr. Kind.
Ms. DeLauro.
Mr. Kucinich.
Mr. Conyers.
Mr. Kennedy of Rhode Island.
Mr. Poshard.
Mr. Barcia.
Ms. Lee.
Mr. Dingell.
Mr. Sanders.
Mr. Gordon.
Mr. Levin.
Mr. Stark.
Mr. Neal.
Mr. Lacey.
Mr. Pomroy.
Mr. Filner.
Mr. Thompson.
Mr. Roemer.
Mr. Allen.
(The following Members (at the request of Mr. Goss) and to include extraneous material:) Mr. Radanovich.
Mr. Sensenbrenner.
Mr. Metcalf.
Mr. Ganske.
Mr. Shaw.
Mr. Watts of Oklahoma.
Mr. Gilman.


Senate Bills Referred

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:
S. 1418. An act to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes; to the Committee on Science, and in addition, to the Committee on Resources, 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.
S. 638. An act to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes; to the Committee on Resources.
S. 1009. An act entitled the "National Discovery Trails Act of 1997; to the Committee on Resources.
S. 1132. An act to modify the boundaries of the Bandelier National Monument to include the lands within the headwaters of the Upper Alamo Watershed which drain into the Monument and which are not currently within the jurisdiction of a Federal land management agency, to authorize purchase or donation of those lands, and for other purposes; to the Committee on Resources.
S. 1403. An act to amend the National Historic Preservation Act for purposes of establishing a national historic lighthouse preservation program; to the Committee on Resources.
S. 1510. An act to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio Arriba, New Mexico; to the Committee on Resources.
S. 1695. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Sand Creek Massacre National Historic Site in the State of Colorado as a unit of the National Park System, and for other purposes; to the Committee on Resources.
S. 1807. An act to transfer administrative jurisdiction over certain parcels of public domain land in Lake County, Oregon, to facilitate management of the land, and for other purposes; to the Committee on Resources.
S. Con. Res. 105. Concurrent Resolution expressing the sense of the Congress regarding the culpability of Slobodan Milosevic for war crimes, crimes against humanity, and genocide in the former Yugoslavia, and for other purposes; to the Committee on International Relations.

Adjournment

Mr. Goss, Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 1 o'clock and 16 minutes a.m.), the House adjourned until today, Friday, July 24, 1998, at 9 a.m.

Executive Communications, etc.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:
10223. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to make the Federal personnel system less cumbersome by unnecessary restrictions and paperwork, and to streamline other purposes; to the Committee on Government Reform and Oversight.

10224. A letter from the Secretary of Veterans Affairs, transmitting the semiannual report of the Smithsonian Institution for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

10225. A letter from the Secretary, Smithsonian Institution, transmitting the semiannual report of the Smithsonian Institution for the period October 1, 1997 through March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

10226. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes; Boeing Model 747 Series Airplanes; and Douglas Model DC-8 Series Airplanes [Docket No. 98-192-AD; Amendment No. 10550; AD 98-13-14] (RIN: 2120-AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10227. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Dornier Model 328-100 Series Airplanes [Docket No. 98-NM-123-AD; Amendment No. 10564; AD 98-14-12] (RIN: 2120-AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10228. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Revisions to the Department’s Final Rule—Class E Airspace; Refugio, TX [Airspace Docket No. 98-ASW-36] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10229. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Revisions to the Department’s Final Rule—Antarctic Conservation Act of 1978, Civil Monetary Penalties [45 CFR Part 672] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10230. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Revisions of Class E Airspace; San Antonio, Kelly AFB, TX [Airspace Docket No. 98-ASW-35] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10231. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Turbopropeller-Powered McDonnell Douglas Model DC-3 and DC-3C Series Airplanes [Docket No. 97-NM-72-AD; Amendment No. 10567; AD 98-14-14] (RIN: 2120-AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10232. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, and 400 Series Airplanes, and Fairchild Model F27 Mark 050 Series Airplanes [Docket No. 97-NM-139-AD; amendment No. 10568; AD 98-14-15] (RIN: 2120-AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10233. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Airworthiness Directives; Boeing Model 747-400, 757, 767, and 777 Series Airplanes Equipped with AlliedSignal SIR/A-358 Instrument-Landing System Receivers [Docket No. 98-NM-155-AD; Amendment No. 10563; AD 98-14-10] (RIN: 2120-AA64) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10234. A letter from the General Counsel, Department of Transportation, transmitting the Department’s final rule—Establishment of Class E Airspace; Johnson City, TX [Airspace Docket No. 98-ASW-33] received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.
CONGRESSIONAL RECORD – HOUSE

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Cincinnati, OH [CGD08-98-038] (RIN: 2115-AE84) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10256. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Special Local Regulation; Winter Harbor Lobster Boat Race, January 23 through February 13, 1999 [Docket No. 98-082-2]; (RIN: 2115-AE46) received July 7, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10257. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Program [13 CFR Parts 121, 125, and 126] received June 29, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

10258. A letter from the Director, Office of Rules and Regulations, Department of Veterans Affairs, transmitting the Department's final rule—Veterans Education: Suspension of Payments [RIN: 2000-AF85] received July 2, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

10259. A letter from the Director, Office of Rules and Regulations, Department of Veterans Affairs, transmitting the Department's final rule—Schedule for Rating Disabilities—Type 126 and Type 15 [Docket No. 98-22] received July 14, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.


10261. A letter from the Executive Director, Assassination Records Review Board, transmitting the Executive Director's letter that it will cease its operations as of September 30, 1998, pursuant to 44 U.S.C.; jointly to the Committees on the Judiciary, Rules, House Oversight, and Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LIVINGSTON: Committee on Appropriations. Report on the Revised Suballocation of the Budget for Fiscal Year 1999 [Rept. 105-642]. Referred to the Committee on the Whole House on the State of the Union.

Mr. GOSS: Committee on Resources. Report on the Revised Suballocation of the Budget for Fiscal Year 1999 [Rept. 105-642]. Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and several were referred, as follows:

By Ms. CHRISTIAN-GREEN:

H.R. 4313. A bill to amend the Revised Organic Act of the Virgin Islands to provide that a number of members of the legislature of the Virgin Islands and the number of such members constituting a quorum shall be determined by the laws of the Virgin Islands, to the Committee on Resources.

By Mr. STARK (for himself, Ms. JOHNSON of Connecticut, Mr. MATSU, Mr. RAMSTAD, Mrs. KENNELLY of Connecticut, Mr. HAIRSTON, Mr. EVANS, Mr. WELLS, Mr. MCDERMOTT, Mr. SKEEN, Mr. KLECZKA, Mr. PORTMAN, Mr. LEWIS of Georgia, Mrs. THURMAN, Mr. CARDIN, and Mr. NEAL of Massachusetts):

H.R. 4314. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on persons who acquire structured settlement payments in factoring transactions, and for other purposes; to the Committee on Ways and Means.

By Mr. BOSWELL:

H.R. 4315. A bill to provide for a coordinated effort to combat methamphetamine abuse, and for other purposes; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of all provisos as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 4316. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 4317. A bill to provide for a pilot program for the use of Medicare beneficiary cards under the Medicare and Medicaid Programs; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisos as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia:

H.R. 4319. A bill to repeal Executive Order 13147, to the Committee on the Judiciary.

H.R. 4320. A bill to properly balance the wind and water erosion criteria and the wildlifefriendliness criteria of the Conservation Reserve Program: to the Committee on Agriculture.

By Mr. HANSEN:

H.R. 4321. A bill to adjust the boundaries of the Wasatch-Cache National Forest and Mount Naomi Wilderness in the State of Utah to correct a faulty land survey and to direct the Secretary of the Interior to conduct a survey that was subject to the faulty survey; to the Committee on Resources.

By Mr. LEACH (for himself, Mr. LAZIO of New York, Mr. CASTLE, Mr. FALCE, Mr. HINCHY, and Mr. VENTO):

H.R. 4322. A bill to protect consumers and financial services providers from misuse of personal financial information from being obtained from financial institutions under false pretenses; to the Committee on Banking and Financial Services.

By Mr. OBERSTAR (for himself, Mr. LEACH, Mr. KIND of Wisconsin, Mr. GUTKNECHT, Mr. EVANS, Mr. GEPHARDT, Mr. VEGA, Mr. DAVIS of Ohio, Mr. DAVIES, Mr. BOSWELL, Mr. HULSHOF, Mr. MINGE, Mr. SHIMKUS, Mr. LINDER, Mr. PETRI, Mr. LIPINSKI, Mr. KLAG, and Mr. SABO):

H.R. 4323. A bill to amend the Water Resources Development Act of 1986 concerning management of the upper Mississippi River system; and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ROMERO-BARCELÓ (for himself, Ms. CHRISTIAN-GREEN, Mr. UNDERWOOD, Mr. LAZIO of New York, Mr. PALLONE, Mr. DEUTCH, Mr. BROWN of Ohio, Mr. THOMPSON, Mr. CLYBURN, Ms. MILLER-McDONALD, Mrs. MEEK of Florida, Mr. TOWNS, Ms. FURSE, Mr. HILLIARD, Ms. KILPATRICK, Ms. BERNICE JOHNSON of Texas, Ms. MCKINNEY, Mr. PAYNE, Mr. JACKSON, Ms. JACKSON-LEE, Mr. HASTINGS of Florida, Mr. BARAY, Mr. BISSI, Ms. DAVIS of Illinois, Ms. NORTON, Ms. WATERS, Mr. FAZIO of California, Ms. LEE, Mr. MEeks of New York, and Mr. ENGEL):

H.R. 4324. A bill to amend titles XIX and XXI of the Social Security Act to give States
MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

375. The SPEAKER presented a memorial of the House of Representatives of the State of Maine, relative to H.P. 1148 requesting the President of the United States and the United States Congress to remove the financial assistance necessary to grow the tobacco crop; to the Committee on Agriculture.

376. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 65 memorializing the Congress of the United States to provide assistance to the state of Louisiana in the declining production of oil and gas in that state; to the Committee on Commerce.

377. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Concurrent Resolution No. 123 memorializing the United States Congress and United States Postal Service to take such actions as are necessary to have other provisions in lieu of relocation considered for the United States Post Office in Artesia, Louisiana; to the Committee on Government Reform and Oversight.

378. Also, a memorial of the House of Representatives of the State of Maine, relative to H.P. 1660 memorializing the important civil rights protections extended by the Fair Housing Amendments Act of 1988 must be preserved; to the Committee on the Judiciary.

379. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Resolution No. 27 memorializing the Congress of the United States to strongly support the House Joint Resolution 78, the Religious Freedom Amendment to the Constitution, and to submit the same to the states for ratification; to the Committee on the Judiciary.

380. Also, a memorial of the Senate of the State of Louisiana, relative to Senate Concurrent Resolution No. 20 memorializing the Congress of the United States to adopt Senate Joint Resolution 40 and give the flag of our nation lawful protection from willful desecration; to the Committee on the Judiciary.

381. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Concurrent Resolution No. 101 urging the governor of Louisiana and the mayors and councils of other states to also communicate to the United States Congress that the business meal is a legitimate expense which must be restored to one hundred percent deductibility; to the Committee on Ways and Means.

382. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 13 memorializing the Congress of the United States to enact H.R. 334, the "Fair Indian Gaming Act," into law; jointly to the Committees on Resources and the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 619: Mrs. CAPPS and Mr. BEREUTER.
H.R. 1032: Mr. GILMAN and Ms. ROYBAL-ALFORD.
H.R. 1063: Mr. MCDOLLUM and Mr. TIERNEY.
H.R. 1126: Mr. DAVIS of Florida, Mr. RILEY, Mr. BASS, and Mr. WEYAND.
H.R. 1202: Mrs. CAPPS and Mr. BEREUTER.
H.R. 1231: Mrs. MECK of Florida.
H.R. 1321: Mr. FROST.
H.R. 1571: Mr. WAXMAN.
H.R. 1749: Mrs. CAPPS.
H.R. 1975: Ms. LEE.
H.R. 1995: Mr. CANADY of Florida.
H.R. 2072: Mr. BONILLA, Mr. MORAN of Kansas, and Ms. HOBSON.
H.R. 2348: Mr. RIGGS.
H.R. 2349: Mr. RIGGS.
H.R. 2524: Ms. CHRISTIAN-GREEN and Mr. COYNE.
H.R. 2661: Mr. HOBSON and Mr. LUCAS of Oklahoma.
H.R. 2695: Mr. ENGLE.
H.R. 2701: Mr. HILLIARD.
H.R. 2721: Mr. LUCAS of Oklahoma and Mr. DOOLITTLE.
H.R. 2821: Mr. LEWIS of Kentucky, Mr. PORTER, and Mr. DEUTSCH.
H.R. 2908: Mr. EVANS and Mr. HILLEARY.
H.R. 3248: Mr. MILLER of Florida.
H.R. 3259: Mr. COYNE.
H.R. 3410: Mr. UPTON.
H.R. 3503: Mr. DEUTSCH, Mrs. MINK of Hawaii, and Ms. CHRISTIAN-GREEN.
H.R. 3553: Mr. LANTOS, Mr. ABERCROMBIE, Mr. FATTAH, Mr. NADLER, Mr. ACKERMAN, Mr. JACKSON, Mr. EVANS, Mr. LIPINSKI, Mr. COSTELLO, Mr. KENNEDY of Massachusetts, Mr. REBERG, Mr. MEYER, Mr. BARRETT of Wisconsin, Mr. LEWIS of Georgia, Ms. CHRISTIAN-GREEN, Mrs. MINK of Hawaii, Mr. GREEN, Mr. KENNEDY of Rhode Island, Mr. KIER, Mr. TAUSCHER, Mr. DOOLEY of California, Mr. FARR of California, Ms. LOGREN, Mr. MEeks of New York, Mr. CUMMINGS, Ms. FURSE, Ms. KIL PATRICK, Mr. POSHARD, and Mr. MANTON.
H.R. 3622: Mr. REYES, Mr. LAFALCE, Mr. CARSON, Mr. ABERCROMBIE, and Ms. BROWN of Florida.
H.R. 3699: Mr. CRAMER.
H.R. 3702: Mr. SADLIN.
H.R. 3795: Ms. RIVERS.
H.R. 3894: Mr. HASTERT.
H.R. 3898: Mr. DUNCAN.
H.R. 3902: Mr. HILLIARD.
H.R. 3915: Mr. SABO and Mr. PAYNE.
H.R. 3949: Mr. WELDON of Florida, Mr. SUNUNU, and Mr. SPENCE.
H.R. 4019: Mr. SENSENBRENNER, Mr. COYNE, and Mr. WOLF.
H.R. 4027: Mrs. MINK of Hawaii and Mr. MENG of Pennsylvania.
H.R. 4028: Mrs. THURMAN, Mr. LAMPSON, Ms. FURSE, Mr. MANZULLO, Ms. HOODLEY of Oregon, Mr. BROWN of Ohio, Mr. POSHARD, and Mr. FERSON.
H.R. 4031: Mr. KILDEE, Mr. BONIOR, and Mr. MCDERMOTT.
H.R. 4042: Mr. INGLIS of South Carolina and Mr. SPRAT.
H.R. 4041: Mr. INGLIS of South Carolina and Mr. SPRAT.
H.R. 4042: Mr. INGLIS of South Carolina and Mr. SPRAT.
H.R. 4043: Mr. INGLIS of South Carolina and Mr. SPRAT.
H.R. 4072: Mr. POSHARD, Mr. LUTHER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. FURSE, Mr. MCHALE, Mr. GUTIERREZ, and Mr. TOWNS.
H.R. 4086: Mr. JEFFERSON, Ms. LOGREN, Mr. MCGOVERN, and Ms. STABENOW.
H.R. 4127: Mrs. MORELLA and Mr. MCINTOSH.
H.R. 4131: Mr. MORGAN of Virginia.
H.R. 4136: Mr. ROGERS.
H.R. 4151: Mr. ROTHMAN.
H.R. 4196: Mr. HAYWORTH.
H.R. 4197: Mr. MILL and Mr. HAYWORTH.
H.R. 4228: Mr. CHRISTENSEN and Mr. COUBURN.
H.R. 4235: Ms. CHRISTIAN-GREEN.
H.R. 4248: Mr. ENGLISH of Pennsylvania, Mr. LUTHER, and Mr. CALVERT.
H.R. 4256: Mr. LINDER.
H.R. 4283: Mr. YATES, Mr. PORTMAN, Mr. MARKNEY, Mr. MCGOVERN, Ms. HOODLEY of Oregon, Mr. BRETT of Wisconsin, Mr. BONIOR, and Mr. CAMPBELL.
H.R. 4285: Mr. MCDOLLUM.
H.R. 4293: Mr. McNULTY and Mr. FALLEOMAVAEGA.
H.R. 4301: Mrs. THURMAN.
H.R. 4309: Mr. GILMAN, Mr. BONIOR, and Mr. OWENS.
H.R. 4309: Mr. THOMAS.
H. Res. 123: Mr. ROEMER.
H. Con. Res. 249: Mr. OWENS.
H. Con. Res. 299: Mr. KINGSTON, Mr. SPEENCE, Mr. DUNCAN, and Mr. TRAFICANT.
H. Res. 321: Mr. OWENS.

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. 716: Mr. FORBES.
H.R. 3905: Mr. RAHALL.
AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4194
OFFERED BY: MR. HILLARY
AMENDMENT NO. 32: At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 101. Access to emergency care.
Sec. 102. Offering of choice of coverage options under group health plans.
Sec. 103. Choice of providers.
Sec. 104. Access to specialty care.
Sec. 105. Continuity of care.
Sec. 106. Coverage for individuals participating in approved clinical trials.
Sec. 107. Access to needed prescription drugs.
Sec. 108. Adequacy of provider network.
Sec. 109. Nondiscrimination in delivery of services.
Sec. 110. Quality assurance program.
Sec. 111. Collection of standardized data.
Sec. 112. Process for the selection of providers.
Sec. 113. Drug utilization program.
Sec. 114. Standards for utilization review activities.
Sec. 115. Health care quality advisory board.
Sec. 116. Health care quality information.
Sec. 117. Health insurance ombudsman.
Sec. 118. Grievance and appeals procedures.
Sec. 119. Establishment of grievance process.
Sec. 120. Internal appeals of adverse determinations.
Sec. 121. Excessive denial of adverse determinations.
Sec. 122. Protection of the doctor-patient relationship.

A short title follows:

TITLE I—HEALTH INSURANCE BILL OF RIGHTS

Subtitle A—Access to Care
Sec. 101. Access to emergency care.
Sec. 102. Offering of choice of coverage options under group health plans.
Sec. 103. Choice of providers.
Sec. 104. Access to specialty care.
Sec. 105. Continuity of care.
Sec. 106. Coverage for individuals participating in approved clinical trials.
Sec. 107. Access to needed prescription drugs.
Sec. 108. Adequacy of provider network.
Sec. 109. Nondiscrimination in delivery of services.

Subtitle B—Quality Assurance
Sec. 111. Collection of standardized data.
Sec. 112. Process for the selection of providers.
Sec. 113. Drug utilization program.
Sec. 114. Standards for utilization review activities.
Sec. 115. Health care quality advisory board.
Sec. 116. Health care quality information.
Sec. 117. Health insurance ombudsman.
Sec. 118. Grievance and appeals procedures.
Sec. 119. Establishment of grievance process.
Sec. 120. Internal appeals of adverse determinations.
Sec. 121. Excessive denial of adverse determinations.

Subtitle C—Patient Information
Sec. 121. Patient information.

Subtitle D—Protection of patient confidentiality.
Sec. 123. Health insurance ombudsman.

Subtitle E—Grievance and Appeals Procedures
Sec. 131. Establishment of grievance process.
Sec. 132. Internal appeals of adverse determinations.
Sec. 133. Excessive denial of adverse determinations.

Subtitle F—Protecting the Doctor-Patient Relationship
Sec. 141. Prohibition of interference with certain medical communications.
Sec. 142. Prohibition against transfer of patient confidentiality.
Sec. 143. Additional rules regarding participation of health care professionals.
Sec. 144. Protection for patient advocacy.

Subtitle G—Promoting Good Medical Practice
Sec. 151. Promoting good medical practice.

Sec. 152. Standards relating to benefits for certain breast cancer treatment.
Sec. 153. Standards relating to benefits for mental health care services.

The amounts otherwise provided by this Act are reduced by the amount made available for "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—COMMUNITY PLANNING AND DEVELOPMENT—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS"; and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—DEPARTMENT ADMINISTRATION—GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES", by $21,000,000.

H.R. 4259
OFFERED BY: MR. DINGELL
AMENDMENT NO. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the "Patient’s Bill of Rights Act of 1998".
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—HEALTH INSURANCE BILL OF RIGHTS
Subtitle A—Access to Care
Sec. 101. Access to emergency care.
Sec. 102. Offering of choice of coverage options under group health plans.
Sec. 103. Choice of providers.
Sec. 104. Access to specialty care.
Sec. 105. Continuity of care.
Sec. 106. Coverage for individuals participating in approved clinical trials.
Sec. 107. Access to needed prescription drugs.
Sec. 108. Adequacy of provider network.
Sec. 109. Nondiscrimination in delivery of services.

Subtitle B—Quality Assurance
Sec. 111. Collection of standardized data.
Sec. 112. Process for the selection of providers.
Sec. 113. Drug utilization program.
Sec. 114. Standards for utilization review activities.
Sec. 115. Health care quality advisory board.
Sec. 116. Health care quality information.
Sec. 117. Health insurance ombudsman.
Sec. 118. Grievance and appeals procedures.
Sec. 119. Establishment of grievance process.
Sec. 120. Internal appeals of adverse determinations.
Sec. 121. Excessive denial of adverse determinations.

Subtitle C—Patient Information
Sec. 121. Patient information.

Subtitle D—Protection of patient confidentiality.
Sec. 123. Health insurance ombudsman.

Subtitle E—Grievance and Appeals Procedures
Sec. 131. Establishment of grievance process.
Sec. 132. Internal appeals of adverse determinations.
Sec. 133. Excessive denial of adverse determinations.

Subtitle F—Protecting the Doctor-Patient Relationship
Sec. 141. Prohibition of interference with certain medical communications.
Sec. 142. Prohibition against transfer of patient confidentiality.
Sec. 143. Additional rules regarding participation of health care professionals.
Sec. 144. Protection for patient advocacy.

Subtitle G—Promoting Good Medical Practice
Sec. 151. Promoting good medical practice.

Sec. 152. Standards relating to benefits for certain breast cancer treatment.
Sec. 153. Standards relating to benefits for mental health care services.

The amounts otherwise provided by this Act are reduced by the amount made available for "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—COMMUNITY PLANNING AND DEVELOPMENT—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS"; and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—DEPARTMENT ADMINISTRATION—GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES", by $21,000,000.

H.R. 4259
OFFERED BY: MR. DINGELL
AMENDMENT NO. 2: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the "Patient’s Bill of Rights Act of 1998".
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—HEALTH INSURANCE BILL OF RIGHTS
Subtitle A—Access to Care
Sec. 101. Access to emergency care.
Sec. 102. Offering of choice of coverage options under group health plans.
Sec. 103. Choice of providers.
Sec. 104. Access to specialty care.
Sec. 105. Continuity of care.
Sec. 106. Coverage for individuals participating in approved clinical trials.
Sec. 107. Access to needed prescription drugs.
Sec. 108. Adequacy of provider network.
Sec. 109. Nondiscrimination in delivery of services.

Subtitle B—Quality Assurance
Sec. 111. Collection of standardized data.
Sec. 112. Process for the selection of providers.
Sec. 113. Drug utilization program.
Sec. 114. Standards for utilization review activities.
Sec. 115. Health care quality advisory board.
Sec. 116. Health care quality information.
Sec. 117. Health insurance ombudsman.
Sec. 118. Grievance and appeals procedures.
Sec. 119. Establishment of grievance process.
Sec. 120. Internal appeals of adverse determinations.
Sec. 121. Excessive denial of adverse determinations.

Subtitle C—Patient Information
Sec. 121. Patient information.

Subtitle D—Protection of patient confidentiality.
Sec. 123. Health insurance ombudsman.

Subtitle E—Grievance and Appeals Procedures
Sec. 131. Establishment of grievance process.
Sec. 132. Internal appeals of adverse determinations.
Sec. 133. Excessive denial of adverse determinations.

Subtitle F—Protecting the Doctor-Patient Relationship
Sec. 141. Prohibition of interference with certain medical communications.
Sec. 142. Prohibition against transfer of patient confidentiality.
Sec. 143. Additional rules regarding participation of health care professionals.
Sec. 144. Protection for patient advocacy.

Subtitle G—Promoting Good Medical Practice
Sec. 151. Promoting good medical practice.

Sec. 152. Standards relating to benefits for certain breast cancer treatment.
Sec. 153. Standards relating to benefits for mental health care services.

The amounts otherwise provided by this Act are reduced by the amount made available for "DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—COMMUNITY PLANNING AND DEVELOPMENT—HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS"; and increasing the amount made available for "DEPARTMENT OF VETERANS AFFAIRS—DEPARTMENT ADMINISTRATION—GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES", by $21,000,000.
covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include benefits that the plan or issuer excludes because of fraud, quality, or similar reasons.

(II) CONSTRUCTION.—Nothing in this section shall be construed to

(a) require coverage for benefits for a particular type of health care provider;

(b) require an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options;

(c) require a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option;

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. 103. ACCESS TO SPECIALTY PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant and beneficiary to receive primary care from any participating primary care provider who is available to accept such care.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any qualified participating health care provider who is available to accept such care for such participant, beneficiary, or enrollee.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. 104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage for obstetrical and gynecological care, shall permit each participant, beneficiary, and enrollee to designate a participating provider as the provider of such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

(b) SPECIALISTS.-

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires referral procedures for a participant, beneficiary, or enrollee to receive obstetrical and gynecological care, shall permit each participant, beneficiary, or enrollee to receive primary care from any participating primary care provider who is available to accept such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

(3) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERV-

ICES.—

(A) IN GENERAL.—If—

(i) an individual who is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such services are provided under the plan or coverage, the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to treat the individual's condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this section, the term "specialist" means:

(i) a health care professional who specializes in obstetrics and gynecology to the extent such specialist is a specialist as defined in paragraph (A) to provide for a referral to a specialist who is available and accessible to treat the individual's condition or disease.

(C) ONGOING SPECIAL CARE DEFINED.—In this paragraph, the term "special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(2) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical advice of a specialist, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. 105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3), or benefits or coverage are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee under a group health plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) treat the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the cost of treatment by the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT AS PRIMARY CARE PROVIDER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated, and as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraphs (1) and (the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, and as a result of such termination, the services of a health care provider are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term "terminated" includes, in the case of a group health plan, or health insurance issuer, or enrollee under a group health plan or coverage, it shall mean:—

(A) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).
of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (a), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) if the individual on such date was on an established waiting list or otherwise scheduled to be admitted within a reasonable time of the date of termination of the period of institutionalization and also shall apply to the individual on the basis of the enrollee's participation in the clinical trial referred to in subsection (b).

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend for the system of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a delivery beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider agrees to continue the care of the pregnant beneficiary, or enrollee or to otherwise provide for the termination of the pregnancy before date of the termination, the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of part-post management care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a delivery beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of the provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination, the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved with respect to cost-sharing at the rates applicable prior to the start of the transitional period as payment in full upon the individual meeting the conditions described in paragraph (1); or

(2) The provider agrees to accept reimbursement from the plan or issuer and individual involved with respect to cost-sharing at the rates applicable prior to the start of the transitional period as payment in full upon the individual meeting the conditions described in paragraph (1); or

(3) consistent with the standards for a utilization review program under section 115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of paragraph (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1) the individual has a life-threatening or serious illness for which no standard treatment is effective.

(2) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(3) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has conformed on the basis that the use is investigational, if the use—

(i) is included in the labeling authorized by the Secretary in effect on the date the drug is marketed, or

(ii) is included in the labeling authorized by the Secretary in effect on the date the drug is marketed, or

(B) the participating provider, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponser of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved by the Secretary (which may include funding through in-kind contributions) by one or more of the following:

A. A group health plan, and each health insurance issuer offering health insurance coverage, that provides

B. A cooperative group or center of the National Institutes of Health.

C. Either of the following if the conditions described in paragraph (a)(1)(B) apply under such Act.

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in paragraph (a)(1)(B) apply for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health.

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to require payment for continued treatment by a provider under subsection (a)(1)(B) if, at the time of termination of participation, the provider was treating the patient for fraud.

SEC. 106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual defined in subsection (b)(2), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2); and

(B) subject to subsection (c), may not deny (or impose additional conditions on) the coverage of routine patient costs for items and services in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(b) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial as described in paragraph (1), the plan or issuer shall accept the individual as a participant in the trial.

(c) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1) the individual has a life-threatening or serious illness for which no standard treatment is effective.

(2) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(3) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(4) Either—

(A) the referring physician is a participating health care professional and has conformed on the basis that the use is investigational, if the use—

(i) is included in the labeling authorized by the Secretary in effect on the date the drug is marketed, or

(ii) is included in the labeling authorized by the Secretary in effect on the date the drug is marketed, or

(B) the participating provider, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponser of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved by the Secretary (which may include funding through in-kind contributions) by one or more of the following:

A. A group health plan, and each health insurance issuer offering health insurance coverage, that provides

B. A cooperative group or center of the National Institutes of Health.

C. Either of the following if the conditions described in paragraph (a)(1)(B) apply under such Act.

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in paragraph (a)(1)(B) apply for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health.

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to require payment for continued treatment by a provider under subsection (a)(1)(B) if, at the time of termination of participation, the provider was treating the patient for fraud.

SEC. 107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer would normally pay for comparable services under paragraph (2); or

(2) PAYMENT RATE.—In the case of covered drugs or medical devices, if—

(A) a delivery beneficiary, or enrollee was determined to be terminally ill (as described in section (b)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that otherwise would have been imposed if the referral referred to in subsection (a)(1)(B) had not been terminated.

(2) The provider agrees to adhere to the quality standards and drug approval standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and prior authorization, and provide for comparable services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits that would not have been covered if the provider involved remained a participating provider.
benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, number, distribution, and variety of qualified participating health care professionals. The qualified health care providers under this section (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community health centers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICABILITY.ÐThe delivery of health care services under this section shall be uniform, consistent, and comparable to the delivery of such services by a health maintenance organization.

(b) TREATMENT OF CERTAIN PROVIDERS.ÐThe qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community health centers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 110. QUALITY ASURANCE.

(a) REQUIREMENT.ÐA group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.ÐThe requirements for a quality improvement program of a plan or issuer are as follows:

(1) ADMISSION.ÐThe plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.
(B) The organizational structure.
(C) The duties of the medical director.
(D) Criteria and procedures for the assessment of quality.

(2) SYSTEMATIC REVIEW.ÐThe program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(3) QUALITY CRITERIA.ÐThe program uses criteria that are based on published clinical practice guidelines and community accepted criteria.

(4) DATA ANALYSIS.ÐThe program provides for the systematic analysis of the plan's or issuer's performance on quality measures.

(5) DISRUPTION.ÐSuch process shall not interfere with or affect the substantive nature of a health care provider's license or a health care provider's ability (consistent with the Americans with Disabilities Act) to perform services in accordance with the scope-of-practice law.

(b) VERIFICATION OF BACKGROUND.ÐSuch process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) NONDISCRIMINATION.ÐSuch process shall not use a high-risk patient base or location of a provider in an area with residents with poor health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.ÐIn general, such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.ÐParagraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services to any plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.ÐIn general, such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act).

(f) RULES.ÐThe appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. 111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.ÐA group health plan and a health insurance issuer that offers health insurance coverage shall, establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.ÐThe requirements for a quality improvement program of a plan or issuer are as follows:

(1) ADMISSION.ÐThe plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.
(B) The organizational structure.
(C) The duties of the medical director.
(D) Criteria and procedures for the assessment of quality.

(2) SYSTEMATIC REVIEW.ÐThe program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(3) QUALITY CRITERIA.ÐThe program uses criteria that are based on published clinical practice guidelines and community accepted criteria.

(4) DATA ANALYSIS.ÐThe program provides for the systematic analysis of the plan's or issuer's performance on quality measures.

(5) DISRUPTION.ÐSuch process shall not interfere with or affect the substantive nature of a health care provider's license or a health care provider's ability (consistent with the Americans with Disabilities Act) to perform services in accordance with the scope-of-practice law.

(b) VERIFICATION OF BACKGROUND.ÐSuch process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) NONDISCRIMINATION.ÐSuch process shall not use a high-risk patient base or location of a provider in an area with residents with poor health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.ÐIn general, such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.ÐParagraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services to any plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.ÐIn general, such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act).

(f) RULES.ÐThe appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. 112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.ÐA group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.ÐThe Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates and outcomes; and

(4) data on satisfaction of such individuals, including data on voluntary disenrollment and grievances;

and

(c) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(d) AVAILABLE DATA REPORTED.ÐThe summary of the data collected under subsection (a) shall be disclosed under section 121(b)(9). The Secretary shall be provided access to all the data so collected.

(e) VARIATION PERMITTED.ÐThe Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such issuers as the Secretary deems appropriate.

SEC. 113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.ÐA group health plan and a health insurance issuer that offers health insurance coverage shall, conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(a) USE OF OUTSIDE AGENTS.ÐNothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or with a third party for the provision of utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.
(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms “utilization review” and “utilization review activities” mean procedures used to monitor or evaluate the appropriateness, necessity, appropriateness of care, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) IN GENERAL.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section 112(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, or service that occurred prior to when the enrollee was enrolled during the same course of treatment.

(c) LIMITS ON FREQUENCY.—Such a program shall include written clinical review criteria described in section 112(b)(4)(B).

(C) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with a utilization review decision. Such a utilization review decision has the opportunity to discuss the decision with, and have such decision reviewed, by the medical director of the plan or issuer involved (or the director’s designee) who has the authority to reverse the decision.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual and the individual’s health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the case, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual as a result of a change in a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual’s designee and the individual’s health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving a retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual’s designee and the individual’s health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases where there is an emergency, maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section 103, respectively.

(e) NOTICES FOR ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) notice of the availability, upon request of the individual (or the individual's designee) in the case of disputes that are not resolved in the utilization review process, of the right to appeal under section 132; and

(C) notice of the availability, upon request of the individual (or the individual’s designee) in the case of disputes that are not resolved in the utilization review process, of the right to appeal under section 132.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify if any additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. 116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under the program, health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary’s designee), the Secretary of Labor (or the Secretary’s designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans; and

(2) advise the Secretary on the development and maintenance of the minimum data set in section 112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators for the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL Consultation.—In carrying out its duties, the advisory board shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointing authority determines.
necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) Continuation.—Section 144(g)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

Subtitle C—Patient Information

SEC. 121. PATIENT INFORMATION.

(a) Disclosure Requirement.—

(1) Group health plans.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) or (c) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(2) Availability of information or authorization for treatment.—(A) The procedures for participants, beneficiaries, and enrollees to select, access, and exchange participating primary and specialty providers.

(B) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and exchange participating primary and specialty providers.

(E) The process and procedures of the plan for determining experimental services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(F) the name, address, and telephone number of the employer and the plan or issuer, the applicable mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(3) Information required under section (c) to such individuals and including any supplemental premium or cost-sharing for such option.

(4) Upon request, make available to the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) Health insurance issuer.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form; and

(B) provide to participants and beneficiaries within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b) in printed form.

(3) Information provided under section (c) to such individuals and including any supplemental premium or cost-sharing for such option.

(4) Emergency coverage.—(A) The appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of the emergency departments, and other processing information, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(5) Out-of-area coverage.—(A) The process for determining experimental services, including use of the 911 telephone system or its local equivalent in emergency situations.

(B) any liability for balance billing, any maximum limitation on out-of-pocket expenses, and the maximum out of pocket costs for services provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements.

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the type of providers participating in the plan or issuer network;

(E) process for determining experimental coverage;

(F) use of a prescription drug formulary.

(6) Access.—A description of the following:

(A) The number, mix, and distribution of providers participating in the plan or coverage;

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(3) Upon request, make available to the applicable authority, and prospective participants and beneficiaries, the information described in subsection (c) in printed form; and

(A) the name, address, and telephone number of the employer and the plan or issuer, the applicable mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(4) Availability of information or authorization for treatment.—(A) The procedures for participants, beneficiaries, and enrollees to select, access, and exchange participating primary and specialty providers.

(B) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and exchange participating primary and specialty providers.

(E) The process and procedures of the plan for determining experimental services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(F) the name, address, and telephone number of the employer and the plan or issuer, the applicable mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(2) Information required under section (c) to such individuals and including any supplemental premium or cost-sharing for such option.

(3) Upon request, make available to the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) Health insurance issuer.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form; and

(B) provide to participants and beneficiaries within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b) in printed form.

(3) Information provided under section (c) to such individuals and including any supplemental premium or cost-sharing for such option.

(4) Emergency coverage.—(A) The appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of the emergency departments, and other processing information, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(5) Out-of-area coverage.—(A) The process for determining experimental services, including use of the 911 telephone system or its local equivalent in emergency situations.

(B) any liability for balance billing, any maximum limitation on out-of-pocket expenses, and the maximum out of pocket costs for services provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements.

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the type of providers participating in the plan or issuer network;

(E) process for determining experimental coverage;

(F) use of a prescription drug formulary.

(6) Access.—A description of the following:

(A) The number, mix, and distribution of providers participating in the plan or coverage;

B. Out-of-network coverage (if any) provided by the plan or coverage.

C. Any point-of-service option (including any supplemental premium or cost-sharing for such option).

D. The procedures for participants, beneficiaries, and enrollees to select, access, and exchange participating primary and specialty providers.

E. The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

F. The name, address, and telephone number of participating health care providers, and an indication of whether each such provider is available to accept new patients.

G. Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 103(b)(2).

H. How the health insurance issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including any supplemental premium or cost-sharing for such option.

I. The process and procedures of the plan for determining experimental services, including use of the 911 telephone system or its local equivalent in emergency situations.

J. any liability for balance billing, any maximum limitation on out-of-pocket expenses, and the maximum out of pocket costs for services provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements.

K. the extent to which benefits may be obtained from nonparticipating providers;

L. the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the type of providers participating in the plan or issuer network;

M. process for determining experimental coverage;

N. use of a prescription drug formulary.

O. Access.—A description of the following:

1. The number, mix, and distribution of providers participating in the plan or issuer network;

2. any liability for balance billing, any maximum limitation on out-of-pocket expenses, and the maximum out of pocket costs for services provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements.

3. the extent to which benefits may be obtained from nonparticipating providers;

4. the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the type of providers participating in the plan or issuer network;

5. process for determining experimental coverage;

6. use of a prescription drug formulary.

P. Access.—A description of the following:

1. The number, mix, and distribution of providers participating in the plan or issuer network;

2. any liability for balance billing, any maximum limitation on out-of-pocket expenses, and the maximum out of pocket costs for services provided by nonparticipating providers or that are furnished without meeting the applicable utilization review requirements.

3. the extent to which benefits may be obtained from nonparticipating providers;

4. the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the type of providers participating in the plan or issuer network;

5. process for determining experimental coverage;

6. use of a prescription drug formulary.
SEC. 123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services for the purpose of carrying out this section such sums as may be necessary for the expenses of the Health Insurance Ombudsman under subsection (a) or (b), as the case may be.

SEC. 124. HEALTH INSURANCE OMBUDSMEN—CONTINUED.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services for the purpose of carrying out this section such sums as may be necessary for the expenses of the Health Insurance Ombudsman under subsection (a) or (b), as the case may be.

SEC. 125. CONFIDENTIALITY OF COMMUNICATIONS.

(a) IN GENERAL.—Except as provided in paragraph (2), a Health Insurance Ombudsman shall not disclose any confidential communication with any enrollee or recipient of health insurance coverage for purposes of subsection (b) or (c). Nothing in this section shall be deemed to require a Health Insurance Ombudsman to reveal any such communication to any State or Federal authority or any other entity unless specifically required to do so by the terms of this Act or a State law.

(b) EXCEPTIONS.—A Health Insurance Ombudsman may disclose any confidential communication with an enrollee or recipient of health insurance coverage if there is a substantial risk that death or serious bodily injury will result unless such communication is disclosed.

SEC. 126. INVESTIGATION AND REPORT.

(a) IN GENERAL.—A Health Insurance Ombudsman shall have the authority to conduct an investigation of any complaint or request for an appeal received from an enrollee or recipient of health insurance coverage.

(b) INVESTIGATION.—An investigation shall be conducted in a manner that is designed to protect the confidentiality of the enrollee or recipient of health insurance coverage.

(c) REPORT.—A Health Insurance Ombudsman shall submit a report on the results of each investigation to the Secretary of Health and Human Services and the Secretary of the Treasury and, at the Secretary's discretion, to any appropriate Federal agency.

SEC. 127. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, each Health Insurance Ombudsman shall submit a report to the Senate and the House of Representatives on the activities and accomplishments of the Health Insurance Ombudsman.

(b) CONTENT.—A report submitted under paragraph (a) shall include—

(1) A description of the activities and accomplishments of the Health Insurance Ombudsman,

(2) An analysis of the effectiveness of the Health Insurance Ombudsman,

(3) Any recommendations for improvements to the Health Insurance Ombudsman program, and

(4) A summary of the comments and suggestions received by the Health Insurance Ombudsman.

SEC. 128. PROVISIONAL AUTHORIZATION OF APPROPRIATIONS.

The Secretary of Health and Human Services shall, not later than 1 year after the date of the enactment of this Act, submit a report to each House of Congress on the health insurance Ombudsman program. Such report shall include—

(a) A description of the activities and accomplishments of the Health Insurance Ombudsman,

(b) An analysis of the effectiveness of the Health Insurance Ombudsman,

(c) Any recommendations for improvements to the Health Insurance Ombudsman program, and

(d) A summary of the comments and suggestions received by the Health Insurance Ombudsman.

SEC. 129. NONDISCRIMINATION.

A Health Insurance Ombudsman shall not discriminate against any enrollee or recipient of health insurance coverage because of any of the following:

(a) The race, color, gender, national origin, religion, age, or disability of the enrollee or recipient of health insurance coverage.

(b) The manner in which the enrollee or recipient of health insurance coverage received the appeal or the manner in which the enrollee or recipient of health insurance coverage communicates.

(c) The manner in which the enrollee or recipient of health insurance coverage received the appeal or the manner in which the enrollee or recipient of health insurance coverage communicates.

(d) The manner in which the enrollee or recipient of health insurance coverage received the appeal or the manner in which the enrollee or recipient of health insurance coverage communicates.

(e) Any other factor that is not related to the merits of the appeal or the resolution of the grievance.

SEC. 130. OMBUDSMAN AWARD.

A Health Insurance Ombudsman may award a certificate of recognition to an individual who has performed outstanding service as a Health Insurance Ombudsman.
With standards established by the appropriate Secretary shall be conducted consistent with the deadlines provided under this subsection.

(b) General Elements of External Appeal Entities.

(1) Contract with Qualified External Appeal Entity.

(A) Contract Requirement. Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) Restrictions on Qualified External Appeal Entities.

(i) By State for Health Insurance Issuers. With respect to health insurance issuers, the appropriate Secretary may contract with, or otherwise cooperate with, external appeal entities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) By Federal Government for Group Health Plans. With respect to group health plans, the appropriate Secretary may contract with, or otherwise cooperate with, external appeal entities to be conducted by a qualified external appeal entity designated or selected under such clause.

(C) Selection of External Appeal Entities. For purposes of this section, the term “qualified external appeal entity” means, in respect to an individual's rights to seek recovery, including any coverage manual relating to the matter.

(ii) be binding on the plan or issuer;

(iii) may make an oral presentation.

(D) Provision of Information. The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) Timely Decisions. A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical expertise and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with the appropriate Secretary's performance of external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity shall provide information to health care providers and their patients; or

(ii) be binding on the plan or issuer;

(iii) may make an oral presentation.

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) Certification of External Appeal Entities.

(A) In General. In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements. If the States have not established an adequate certification and recertification process by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) Recertification Process. The appropriate Secretary shall establish standards for the recertification of external appeal entities. Such standards shall include a specification of the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the entity's performance of external appeal activities, the disposition of those cases, the length of time in making determinations on those cases, and the entity's performance of external appeal activities and to otherwise require a group health plan or health insurance issuer in relation to health insurance coverage (including any contract or agreement described in paragraph (1)) shall be null and void.

(ii) the periodicity which recertification will be required.

(C) Continuing Legal Rights of Enrollees. Nothing in this title shall be construed to bar any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

Subtitle E—Protecting the Doctor-Patient Relationship

SEC. 141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS

(a) Prohibition.

(1) General Rule. The provisions of any contract or agreement shall not be interpreted or enforced in any manner as to prohibit the doctor-patient relationship.

(2) Nullification. Any contract provision or agreement described in paragraph (1) shall be null and void.

(b) Rules of Construction. Nothing in this section shall be construed—

(i) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions relative to payment for services rendered to the health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer, or to otherwise require a group health plan or health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) Medical Communication Defined. In this section—

The term “medical communication” means any communication made by a health care provider with a patient of the health care provider (or any agent or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) the need for, or utilization review requirements that may affect treatment options for the patient; or
(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term “medical communication” does not include a communication to a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. 142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER PHYSICIAN INCENTIVE ARRANGEMENTS.

(a) Prohibition of Transfer of Indemnification.—

(1) IN GENERAL.—No contract or agreement between a plan or health insurance issuer and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) Prohibition of Improper Physician Incentive Plans.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance shall provide a method for referring such providers, with such a plan or issuer acting on behalf of such a plan or issuer and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(c) Consultation with Participating Physicians or Issuers.—

A group health plan or a health insurance issuer providing a method for referring such providers, with such a plan or issuer acting on behalf of such a plan or issuer and a health care provider shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall:

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for addressing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(d) Consultation in Medical Policies.—

A group health plan, and a health insurance issuer that offers health insurance coverage, shall consult with participating physicians (and any employee of such an organization, or an individual enrolled with the organization shall be treated as the reference to the applicable author) regarding a plan or issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. 143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) Procedures.—

Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, or has a contract or other arrangement with such professionals, the information to be true; (c) the information evidences either a violation of a law, regulation, or other applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and (D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, or issuer, or institutional health care provider to establish or the purpose of addressing quality concerns before making the disclosure.

(3) Exception and Special Rule.—

(A) General exception.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the patient’s rights of participation or participation if, with respect to the provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(B) Enforcement of Peer Review Protocols and Internal Procedures.—

Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—

Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) Protected Health Care Professional Defined.—

For purposes of this subsection, the term “protected health care professional” means an individual who is a licensed or certified health care professional and who, with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or (B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle F—Promoting Good Medical Practice

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) Protection for Use of Utilization Review and Determination of Coverage.—A group health plan, and a health insurance issuer offering health insurance coverage, shall consult with participating physicians (if any) regarding the plan or issuer’s internal procedures for the purpose of addressing quality concerns before making the disclosure.

(3) Exception and Special Rule.—

(A) General exception.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the patient’s rights of participation or participation if, with respect to the provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(B) Enforcement of Peer Review Protocols and Internal Procedures.—

Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—

Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) Protected Health Care Professional Defined.—

For purposes of this subsection, the term “protected health care professional” means an individual who is a licensed or certified health care professional and who, with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or (B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

Subtitle F—Promoting Good Medical Practice

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) Protection for Use of Utilization Review and Determination of Coverage.—A group health plan, and a health insurance issuer offering health insurance coverage, shall consult with participating physicians (if any) regarding the plan or issuer’s internal procedures for the purpose of addressing quality concerns before making the disclosure.
(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term ‘manner or setting’ means the location of treatment, such as whether treatment is provided on an inpatient hospital basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

(4) COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the provider’s coverage or from conducting utilization review activities consistent with this subsection.

(c) RULES OF CONSTRUCTION.—(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, that does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or an issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(4) Nothing in this section shall be construed to require a health insurance issuer offering group health insurance coverage if there is a State law regulating such coverage that is otherwise applicable with respect to benefits for mastectomies.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or an issuer from imposing such coinsurance or cost-sharing that is otherwise applicable with respect to benefits for mastectomies.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 727(a)(1) of the Employee Retirement Income Security Act of 1974) that regulates such coverage that is otherwise applicable with respect to benefits for mastectomies.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 732(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

SEC. 153. STANDARDS RELATING TO BENEFITS FOR RECONSTRUCTIVE BREAST SURGERY.

(a) REQUIREMENTS FOR RECONSTRUCTIVE BREAST SURGERY.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, may not—

(A) provide coverage for breast surgery in connection with a mastectomy with coverage is for cosmetic surgery.

(B) restrict benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(C) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(D) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(E) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(F) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(G) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(H) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(I) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(J) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(K) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(L) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(M) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(N) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(O) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(P) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(Q) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(R) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(S) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(T) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(U) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(V) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(W) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(X) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(Y) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(Z) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(aa) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(bb) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(cc) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(dd) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(ee) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(ff) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(gg) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(hh) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(ii) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(jj) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(kk) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

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(nn) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(oo) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(pp) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(qq) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(rr) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(ss) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(tt) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

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(vv) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(ww) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(xx) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(yy) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(zz) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(1) require such coverage to be included for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(2) limit benefits for any hospital length of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(b) EXCEPTION.—(1) IN GENERAL.—The requirements of this section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, that does not provide benefits for hospital lengths of stay in connection with a mastectomy with coverage is for cosmetic surgery.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 732(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

Subtitle G—Definitions

SEC. 191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 291 of the Public Health Service Act apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means the Secretary of Health and Human Services, in connection with the Secretary of Labor and the Secretary of the Treasury and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this title under sections 2206 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this title under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this title.
shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the Northern Mariana Islands, any political subdivision of such Islands, or any agency or instrumentality of either.

SEC. 193. REGULATIONS.
The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this title. Such regulations shall be issued consistent with section 104 of the Patient Protection and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretary determines appropriate to carry out this title.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER PUBLIC HEALTH SERVICE ACT

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998 with respect to such requirements so long as the plan sponsor or its representatives did not cause such failure by their

(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such service applied to such issuer and such issuer were a group health plan.

(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such service applied to such issuer and such issuer were a group health plan.

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 713. PATIENT PROTECTION STANDARDS.

(a) IN GENERAL.—Subject to subsection (b), each health insurance issuer offering group health insurance coverage in connection with such a plan shall comply with the requirements of title I of the Patients' Bill of Rights Act of 1998 as in effect as of the date of the enactment of such Act, and such requirements shall be deemed to be incorporated into this subpart.

(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

TITLE II—APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under title I of the Patients' Bill of Rights Act of 1998 with respect to such requirements so long as the plan sponsor or its representatives did not cause such failure by their
in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

(4) **EXTERNAL APPEALS.**—Pursuant to rules of the Secretary, insofar as a group health plan entitles an employee (or other plan sponsor (or employee) acting on the employee's behalf (or other plan sponsor's (or employee's) behalf)) to a qualified external appeal entity for the conduct of external appeal actions in accordance with section 133, the plan shall be treated as meeting the requirements of such section and shall not be liable for the entity's failure to meet any requirements under such section.

(5) **APPLICATION TO PROHIBITIONS.**—Pursuant to section 133 of such Act, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

(A) **Section 109.**

(5) Any cause of action against an employer or other plan sponsor maintaining the group health plan (as defined in section 733), or

(B) that arises out of the arrangement by employers to maintain a group health plan (as defined in section 733), or

(C) the general effective date.

(2) **TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.**—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employer representatives and 1 or more employers ratified before the date of enactment of this Act, and the amendments made by sections 201(a), 301, and 401 (and title I relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for any plan years beginning on or after October 1, 1999 (in this section referred to as the "general effective date")

(2) **TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.**—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employer representatives and 1 or more employers ratified before the date of enactment of this Act, and the amendments made by sections 201(a), 301, and 401 (and title I insofar as it relates to such section) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to the requirements of this Act shall not be treated as a termination of such collective bargaining agreement.

(2) **INDIVIDUAL HEALTH INSURANCE COVERAGE.**—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

**TITLE IV—APPLICATION TO GROUP HEALTH PLANS UNDER THE INTERNAL REVENUE CODE OF 1986.**

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 153(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by striking after the date of enactment of this Act (in section 144(b) of the Patients' Bill of Rights Act of 1998) and all that follows and inserting "$10,000,000. The amount of the increase under the preceding
sentence shall not exceed the sum of the applicable credit amount under section 2030(c) (determined without regard to section 2057(a)(3)) and $550,000.

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 503 of the Taxpayer Relief Act of 1997.

SEC. 602. TREATMENT OF CERTAIN DEDUCTIBLE LIQUIDATING DISTRIBUTIONS OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.

(a) In General.—Section 332 of the Internal Revenue Code of 1986 (relating to complete liquidations of subsidiaries) is amended by adding at the end the following new subsection:

 ``(C) Deductible Liquidating Distributions of Regulated Investment Companies and Real Estate Investment Trusts.—If a corporation receives a distribution from a regulated investment company or a real estate investment trust which is considered under subsection (b) as being in complete liquidation of such company or trust, then, notwithstanding any other provision of this chapter, such corporation shall recognize and treat as a dividend from such company or trust an amount equal to the deduction for dividends paid allowable to such company or trust by reason of such distribution.''

(b) Conforming Amendments.—

(1) The material preceding paragraph (1) of section 332(b) of such Code is amended by striking ‘‘subsection (a)’’ and inserting ‘‘this section’’.

(2) Paragraph (1) of section 334(b) of such Code is amended by striking ‘‘subsection (a)’’ and inserting ‘‘this section’’.

(3) Effective Date.—The amendments made by this section shall apply to distributions after May 21, 1998.

H.R. 4276
Offered by: Mr. Evans

Amendment No. 3: At the end of the bill add the following new title:

TITLE VII—VETERANS' ACCESS TO EMERGENCY MEDICAL CARE

SEC. 7001. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) Contract Care.—Section 1703(a)(3) of title 38, United States Code, is amended by inserting ‘‘who is enrolled under section 1705 of this title or who is’’ after ‘‘health of a veteran’’.

(b) Definition of Medical Services.—Section 1701(b) of such title is amended—

(1) by striking out ‘‘and’’ at the end of subparagraph (A);

(2) by inserting before the period at the end of subparagraph (B) and inserting in lieu thereof ‘‘; and’’;

(3) by inserting after subparagraph (B) the following new subparagraph: ‘‘(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title’’.

(c) Reimbursement of Expenses for Emergency Care.—Section 1728(a)(2) of such title is amended—

(1) by striking out ‘‘or’’ before ‘‘(D)’’; and

(2) by striking after the semicolon at the end the following: ‘‘, or (E) for any medical emergency which poses a serious threat to the life or health of a veteran enrolled under section 1705 of this title’’.

SEC. 7002. EFFECTIVE DATE.

The amendments made by section 7001 shall apply with respect to care or services provided on or after the date of enactment of this Act.

H.R. 4276
Offered by: Mr. Bass

Amendment No. 10: Page 25, line 24, after the dollar amount, insert ‘‘(increased by $19,500,000)’’.

Page 26, line 2, after the dollar amount, insert the following: ‘‘(increased by $4,500,000)’’.

Page 51, line 9, after the dollar amount, insert the following: ‘‘(decreased by $43,000,000)’’.

Page 51, line 10, after the dollar amount, insert the following: ‘‘(decreased by $43,000,000)’’.

H.R. 4276
Offered by: Mr. Hutchinson

Amendment No. 11: Strike title VIII.

H.R. 4276

Offered by: Ms. Jackson-Lee of Texas

Amendment No. 12: Page 11, line 15, insert ‘‘(increased by $6,699,000)’’ after ‘‘$500,000’’.

Page 26, line 17, insert ‘‘(decreased by $4,200,000)’’ after ‘‘$371,400,000’’.

Page 28, line 2, insert ‘‘(decreased by $4,200,000)’’ after ‘‘$2,400,000,000’’.

H.R. 4276
Offered by: Mr. Kucinich

Amendment No. 13: At the end of the bill, insert after the last section (preceding the short title) the following:

T I T L E IX—ADDITIONAL GENERAL PROVISIONS

SEC. 901. None of the funds made available in this Act may be used for the filing of a complaint, or any motion seeking declaratory or injunctive relief pursuant thereto, that challenges any State, local, or tribal law on the grounds that the law is inconsistent with an international commercial agreement, including any trade or investment agreement.

H.R. 4276
Offered by: Mrs. Mink of Hawaii

Amendment No. 14: Page 12, line 9, insert ‘‘(reduced by $2,260,000)’’ after the 1st dollar figure.

Page 21, line 18 insert ‘‘(reduced by $1,260,000)’’ after the 1st dollar figure.

Page 94, line 16, insert ‘‘(increased by $2,260,000)’’ after the 1st dollar figure.

H.R. 4276
Offered by: Mr. Royce

Amendment No. 15: Page 51, line 9, insert ‘‘(reduced by $180,200,000)’’ after ‘‘$130,200,000’’.

Page 53, line 10, insert ‘‘(reduced by $43,000,000)’’ after ‘‘$43,000,000’’.

Page 53, line 12, insert ‘‘(reduced by $500,000)’’ after ‘‘$500,000’’.

H.R. 4276
Offered by: Mr. Sanders

Amendment No. 16: Page 102, line 3 insert ‘‘(increased by $4,000,000)’’ after the dollar amount.

Page 100, line 13 insert ‘‘(decreased by $4,000,000)’’ after the dollar amount.

H.R. 4276
Offered by: Mr. Sanders

Amendment No. 17: Page 102, line 3 insert ‘‘(increased by $4,000,000)’’ after the dollar amount.

Page 40, line 8 insert ‘‘(decreased by $4,000,000)’’ after the dollar amount.

H.R. 4276
Offered by: Mr. Stearns

Amendment No. 18: Page 78, line 19, after ‘‘$415,000,000’’ insert ‘‘(decreased by $415,000,000)’’.
The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rev. David W. Anderson, of the Faith Baptist Ministry, Sarasota, FL.

PRAYER

The guest Chaplain, Rev. David W. Anderson, Faith Baptist Ministry, Sarasota, FL, offered the following prayer:

Almighty Creator and Giver of life, we bow before You with thankful hearts for the innumerable blessings bestowed upon America. Your wisdom guides us to truth, and Your power sustains our freedom. Your forgiveness cleanses our transgressions, and Your Spirit calls us to be a righteous and just Nation.

Wonderful Counselor, enable the men and women of this Senate to balance the pressures of their individual lives with the demands of their offices. Comfort their hearts in times of personal crisis and protect their families. Grant them time with their loved ones and remind them of their need for faith. Strengthen their character and clarify their vision that they might address the complex issues facing our Nation with wisdom, courage, and compassion.

Lord, bless the talents that You have bestowed upon these Your servants. Reward them for the leadership they exercise. Give them the courage to do what is right, the conviction to resist what is wrong, and the counsel to discern the difference. Help them to discuss issues of national concern in a spirit of unity and cooperation, knowing that together they serve the same people and the same sovereign God. In Jesus' Name, I pray. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. GREGG. Mr. President, this morning the Senate will resume consideration of the Commerce/Justice-State appropriations bill. At 9:15 a.m. the Senate will vote in relation to the Craig amendment followed by a vote in relation to the underlying Kyl amendment. Following those votes, under a previous consent agreement, the Senate will debate several amendments to be offered to the C.J.S. bill. At the conclusion of that debate, which is expected by early afternoon, the Senate will proceed to a stacked series of votes in relation to those amendments. Following disposition of all amendments in order, it is expected that the Senate will quickly proceed to final passage of the Commerce/Justice-State appropriations bill. Upon completion of the C.J.S. bill, it is hoped that the Senate will begin consideration of the transportation appropriations bill. Therefore Members should expect another late night session with votes as the Senate attempts to make progress on the remaining appropriations bills. I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. COATS). Under the previous order, leadership time is reserved.

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the Commerce-Justice-State appropriations bill, S. 2260, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2260) making appropriations for the Departments of Commerce, Justice and State, the Judiciary, and related agencies for fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Craig modification amendment No. 3266, to prohibit Internet gambling.

Craig modified amendment No. 3268 (to amendment No. 3266), to clarify that Indian gaming is subject to federal jurisdiction.

AMENDMENT NO. 3268

The PRESIDING OFFICER. Under the previous order, there will now be 10 minutes for debate, divided in the usual form, on amendment No. 3268, offered by the Senator from Idaho, Mr. CRAIG.

Mr. KYL. Mr. President, since Senator CRAIG is not here, without impinging on the time, I ask unanimous consent that the President Pro Tempore, Senator COATS, as well as Senators ENZI, BOND, and MCCONNELL, be added as cosponsors of the amendment of the Senator from Nevada and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, perhaps Senator CRAIG would like to call for a vote on both his amendment and the underlying amendment. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and nays.

Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I join the Senator and ask for the yeas and nays on the Craig amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.
The years and nays were ordered.

Mr. CRAIG. Mr. President, I understand each side has 5 minutes. If the desk will notify me when I have used 2 minutes.

Mr. President, my amendment to the Kyl amendment attempts to clarify what I think is important that we do. The Indian Affairs Committee has the authority to hold hearings to move legislation, to bring it to the floor as it relates to Indian gaming. We created IGRA, the Indian Gaming Regulatory Act, and the National Indian Gaming Commission for the purpose of regulating Indian gaming. Indian gaming is regulated.

But the Senator from Arizona, without hearings on this in the authorizing committee, steps in and makes significant changes in the Indian gaming law. Now, the Senator from Arizona and I agree that gaming ought to be regulated; it ought to be controlled, the access ought to be controlled. We want it limited, but it isn't limited. It isn't a matter of limiting, stopping something that is already out there, already working, already has stood the test of officialdom, and we believe it meets those standards, the National Indian Lottery. So I hope that my colleagues will stand with me in saying we want regulation and control.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. CRAIG. I appreciate that. We don't want this kind of stepping in and simply wiping out, with the appropriate committee not holding a hearing to understand what is exactly going on. That is the intent of my amendment—to maintain the integrity of the National Indian Gaming Commission and the recognition of the relationship between the Indian Nations and the United States itself and the treaty relationship that is clear and has been well established.

I retain the remainder of my time.

Mr. KYL. Mr. President, I yield time to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I oppose the Craig amendment, which will change gambling in the United States as we currently know it. It will give legal validity to the claims that the tribes have that they can provide gambling all over the United States. They cannot; it is illegal. This amendment would give them a monopoly on the Internet in every home in America, without any age discrimination. That is the reason we require it to be on premises, so we can check to see if kids are gambling. This will eliminate enforcement in States like mine where we have had a referendum on gambling.

It was defeated 2-to-1 in every single county in our State. We do not want gambling in Wyoming. We do not want it to be done soundly. This would allow gambling in Wyoming. This would give national legal validity. This will replace lotteries across the State, when they can naturally advertise it to the extent that they really want to do it. This will provide for eventual, complete electronic gambling for every home in America, without any State being able to oppose it.

I ask you to oppose the Craig amendment and support the Kyl amendment.

Mr. KYL. Mr. President, I am pleased to yield 1 minute to the Senator from New Jersey.

Mr. TORRICE. Mr. President, I am in support of Senator Kyl but I must state my objection to Senator Craig's amendment.

In my career in the U.S. Congress, representing Atlantic City, I have never risen on the floor to oppose gambling. But this is too much. All of our communities have a right to decide when and where we want gaming. We restricted it to one city in New Jersey. Under Senator Craig's amendment, every living room, every child's bedroom in America will become a gaming parlor. It will bring gaming to children, and it won't be restricted to problem gamblers. There will not be any control. If we want to have Indian tribes having Indian gaming, let them do it on their reservation. That is their business. This change to the Indian Gaming Regulatory Act has sovereignty, too. We have decided not to allow gaming in every community. Some States, like Utah, and many of your States, have decided not to have it at all. Now it will be imposed upon us. We have put tribal gaming on the Internet, available to everyone. I urge my colleagues to defeat the Craig amendment.

Mr. INOUYE. Mr. President, I rise to address some of the statements that were made in our debate last evening on Senator Craig's amendment on Senator Kyl's amendment on internet gaming.

First, Mr. President, I want to make clear that the amendment we propose would not exempt Indian tribal governments and Indian gaming from the purview of the Internet Gambling Prohibition Act.

Rather, the amendment allows only the conduct of those games with the application of technology—not Internet technology—but the application of television and satellite-generated technology that we envisioned could be used for the conduct of bingo or games that are subject to a tribal-state compact under the Indian Gaming Regulatory Act.

The language on page 11 of Senator Kyl's amendment makes it abundantly clear that each person placing a bet or wager must be physically located on Indian land and that class III games must be conducted consistent with a tribal-state compact and only in the state to which the compact applies.

So we are not proposing to exempt Indian gaming from the Internet gambling prohibitions outlined in Senator Kyl's amendment.

Secondly, I would want my colleague from Arizona to know that as we read it, there is an ambiguity in the amendment.

States are authorized to enforce the provisions of this amendment, should it become law, for violations by a person.

The term "person" includes "any government"—which must refer to tribal governments, because all other levels of government are specifically mentioned.

Thus, while one section of the bill would restrict state authority to what is provided in tribal state compacts, another section of the bill gives states broad authority to enforce the act as it may relate to the conduct of tribal governments.

Senator Craig's amendment would simply preserve the status quo and maintain the integrity of the pervasive federal regulatory scheme in which federal criminal laws are enforced by the United States on Indian lands—a framework, which as I said last evening, has been in place for over one hundred years.

I thank my colleague from Idaho and wish to assure my colleague from Arizona that I look forward to continuing to work with him as this bill proceeds to conference. I believe that these are the two matters that I have outlined.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I inquire how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes 40 seconds.

Mr. KYL. I yield 1 minute 20 seconds to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank my colleague from Arizona.

Mr. President, I rise in opposition to the Craig amendment. Three million children in America today are online on the Internet. By the year 2000, 35 million children will be on the Internet.

Senators Kyl and I have offered an amendment which takes a public policy which I think every parent in America will support; that is, to prohibit gambling on the Internet. There simply is no way to control access to the Internet and to the types of gambling that are offered.

If the Craig amendment is adopted, that policy is effectively emasculated. I look forward to continuing my work with the junior Senator from Arizona in asking this body to defeat the amendment because every child and every home in America that is on the Internet will have access to gambling on the Internet.

My view is that there is no public policy that would support, in effect, a carve-out to say that we prohibit gambling on the Internet in America for everyone except Indian tribes. That makes no sense, may I respectfully submit to the Presiding Officer and to my colleagues.

If you believe, as Senator Kyl and I do, that Internet gambling should be regulated and that we should not have
access to Internet gambling by children, vote against the Craig amendment.

I thank the Chair.

Mr. KYL. Mr. President, the Senator from Idaho wishes to close. Therefore, let me make the key point that the Senator from New Jersey, and also the Senators from Wyoming and Nevada, have made; that is, that you cannot have any exceptions to a national prohibition on Internet gambling if you want it to work, because if anyone can do it, then the gambling can occur in the homes, in the privacy of the homes around this country by children, by problem gamblers, or by anyone else if there is any exception because the Internet reaches across interstate boundaries. It knows no boundaries. It reaches into any State. And no State can protect its citizens and protect its public policy of outlawing this activity.

I want to make it very clear that this activity is not being conducted legally today.

In a letter written by the State attorneys general, including the attorney general of Idaho on this precise point, the attorneys general said, if interstate gambling is allowed to facilitate the remote placing of bets on an Indian gaming activity, the ultimate absurdity would result. The logical consequence of such a position is that any off-reservation telephone, computer with a modem et cetera, would become a gambling device by which the consumer could communicate with the tribe for the purpose of gambling.

And they specifically refer to the Coeur d'Alene Tribe in Idaho, which is the tribe that the Senator from Idaho wants to permit to gamble. I urge a vote against the Craig amendment.

Mr. CRAIG addressed the Chair. The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, the Senator from Arizona quotes a letter crafted to control Indian gambling, while at the same time protecting the Internet from open access from offshore gambling from the kind of things that the Senator from Arizona has an absolute right to be concerned about. I, too, am concerned, and I hope that my colleagues will join with me in voting for the Craig amendment to protect the integrity of the Indian Gaming Commission law, and the national Indian gaming law that we have established.

With that, I yield the remainder of my time.

Mr. LOTT addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, what is the situation now? Are we prepared to go to that vote unless I use leader time at this point?

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I give myself such leader time as I might use. I will be brief, because I know Members are expecting to vote right away.

But I rise to speak against the Craig amendment. I have a long history of being interested in and concerned about the rights and guarantees that we have given Indian tribes. We have recognized that their reservation is a very industrious. They are really good entrepreneurs and good citizens. I enjoy working with them very much. But this is something beyond that. This would give them ability to get into Internet gambling in a way that it could go into every school and every home all across America. This is not about tribal rights on their reservation or within their tribal areas. This goes across America. To have a special carve-out for Indian tribes on gambling, I think, is just a fundamental mistake.

I understand why the Senator from Idaho feels he must do that. I understand that there have been some court actions about it. But I also think there is a fundamental principle here. And this violates that principle. They should not be given an opportunity that nobody else in America would have. It touches all Americans. And I am always hesitant to rise in opposition to my friend and my colleague in the Republican Party. But I think in this instance he is just fundamentally wrong.

I urge colleagues to vote against the Craig amendment.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho. On the question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 18, nays 82, as follows:

[Rollcall Vote No. 228 Leg.]
the families in those States should be protected from this activity, if you ever allowed one exception, then because of the nature of the Internet, you wouldn't have a bill.

I appreciate that, and I think that clearly the willful passage of the Internet Gambling Prohibition Act. I note for the Record some of the organizations that support this legislation: Ralph Nader's Public Citizen, the Christian Coalition, the Focus on the Family and Family Research Council, National Coalition Against Legalized Gambling and Against Gambling Expansion.

Mr. FORD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. Will Members please cease all conversations?

Mr. KYL. Mr. President, sports organizations, in particular, are obviously very much afraid of the adulteration of professional and amateur sports. As a result, groups like the National Amateeur Athletic Association, Major League Baseball, NFL, NBA, National Hockey League, National Soccer League, and, of course, law enforcement and all 50 States' attorneys general and state legislatures are in favor of this legislation. In fact, it is because of them that we are proposing it. We can't protect the citizens of our States unless we have legislation of this kind.

Mr. MCCONNELL. Mr. President, I commend Senator KYL for his hard work and determination in bringing S. 474 to the floor today. I am most appreciative that during the process, you have worked closely with several pari-mutuel industry groups to make certain that S. 474 does not unefully restrict Internet commerce. The bill reflects a clear understanding of this emerging medium and its potential for both honest and unscrupulous purposes.

Mr. KYL. Thank you, Senator MCCONNELL.

Mr. MCCONNELL. Mr. President, I wish to engage the Senator from Arizona in a short colloquy. This is a complicated bill. It addresses areas where technology is rapidly evolving. Some of my questions may be fairly arcane and will be of interest only to those intimately familiar with the intricacies of the interstate simulcasting of horse racing so I ask that my fellow members be patient with us as we work our way through some of these issues.

Senator KYL, as you are well aware, there are a myriad of federal and state laws and regulations that impact interstate simulcasting. In every instance, I will assume that we are addressing only the application of the language of S. 474 and not the general legality of any specific example given. With that understanding, I will proceed with the first of my questions.

Senator KYL, I am correct that S. 474 does not apply to racetracks that may advertise or make past performances, how-to-bet, promotional, and other similar kinds of information available whether via a racetrack World Wide Web site on the Internet or other technological media.

Mr. KYL. The Senator is correct.

INFORMATION ASSISTING IN PLACING A BET OR WAGER

Mr. MCCONNELL. Senator KYL, I now want to discuss the impact of S. 474 on the current practice of the horse racing industry commonly referred to as "simulcasting and commingling of pari-mutuel pools." Simulcasting of races crosses the country and around the world has grown exponentially in recent years, to the point that simulcasting now accounts for as much as 60 percent of the industry's total wagering.

To foster growth in the simulcasting market, tracks now routinely merge or commingle the pari-mutuel pools from several tracks and off track pari-mutuel facilities into common pari-mutuel pools. Current odds and winning payoffs are then calculated using a totalizator system. Commingling is a practice preferred by bettors because it increases pool sizes and thus helps to minimize the fluctuation of odds and payoffs.

Any diminution in its current ability to simulcast or commingle pools could have catastrophic effects on the pari-mutuel industry.

Mr. KYL. Senator MCCONNELL, I assure you S. 474 is not intended to limit the racing industry's activities in the area of simulcasting and commingling of pari-mutuel pools.

Mr. MCCONNELL. Senator KYL, I appreciate your willingness to consider the pari-mutuel industry. Now, if I may clarify a few more points.

Section 2 of the bill exempts four categories from the definition of "information assisting in the placing of a bet or wager." My next few questions relate to the applicability of these provisions.

First, Senator KYL, as to the first category of exempt information, found at subsection (B)(i), I am assuming that "common pool pari-mutuel pooling" and "commingling of pari-mutuel pools" are two names for the same process—the merging of pari-mutuel pools from two or more locations for purposes of calculating the odds and payoffs.

Mr. KYL. Yes, you are correct.

Mr. MCCONNELL. Senator KYL, according to subsection (B)(i) in section 2, it is the information concerning pari-mutuel pools that is exchanged between certain racetracks or other pari-mutuel facilities is exempted from the prohibition of "information assisting in the placing of a bet or wager" so long as it is "used only to conduct common pool pari-mutuel pooling." Does this mean that a race-track or other pari-mutuel facility may accept wagers on races run at another facility (known as the Host Track), whether the Host Track is located within the same state or in another state or foreign country, and commingles its pari-mutuel pools into the pari-mutuel pools at the Host Track?

Mr. KYL. Yes, commingling of wagers as you describe is permitted by S. 474. However, each facility that participates in the pools must be licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

Mr. MCCONNELL. What if the Host Track located in one state utilizes a totalizator system located in a second state or even a foreign country—could a racetrack or pari-mutuel facility located in either the host state or a third state commingle wagers run at the Host Track into the pari-mutuel pools at the Host Track without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. Subsection (B)(ii) of the Foreign Jurisdiction statute provides that "information exchanged between certain racetracks or other pari-mutuel facilities and a support system located in a foreign jurisdiction" is not considered "information assisting in the placing of a bet or wager" if the information is used only for processing bets or wagers made by or with that facility under applicable law.

The location of the totalizator or other similar system used to process pari-mutuel pools is irrelevant if the pari-mutuel pools are transmitted from and received by facilities each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

Similarly, commingling may require the use of data transmission or phone lines that pass through numerous states. In such event, it is irrelevant whether pari-mutuel wagering is legal in all such states. The only relevant inquiry is whether each of which is licensed by the State or approved by the laws of the foreign jurisdiction in which it operates.

The term "support system" should be read broadly to mean any system or service necessary to transmit or process information related to the commingling of pari-mutuel pools, including totalizator systems, telephone lines, and other similar technological devices essential to the commingling process.

Mr. MCCONNELL. What if the host for the wagering pools is in one state or foreign country, the totalizator is in another state or foreign country, and the race is actually contested in a third state or foreign country. Could commingling of pools take place under this arrangement without violating S. 474?

Mr. KYL. Yes, assuming each facility that participates in the pools is duly licensed by the State or approved by the laws of the foreign jurisdiction in which it operates. As I states earlier, the location of the totalizator or other similar system used to process pari-mutuel wagers is irrelevant if the pari-mutuel pools are transmitted to or from facilities each of which is licensed by the State or approved by the laws of
Mr. MCCONNELL. Senator Kyl, once again, I appreciate your willingness to consider the parimutuel industry. Now, if I may clarify a few more points.

Section 3 of the bill broadly prohibits both individuals and persons engaged in a gambling business from placing, receiving, or otherwise making a bet or wager at a racetrack or parimutuel facility; a second exception is provided for persons placing, making, or receiving a parimutuel wager on a "closed-loop subscriber-based service" that is wholly intrastate.

My final question is this. Am I correct in my analysis that S. 474 does not prohibit or restrict account wagering by telephone?

Mr. KYL. Yes, the bill does not address telephone account wagering.

Mr. MCCONNELL. Am I correct that an interactive account wagering system that uses a variety of communications media and computer technology to present audio and/or video information about the races to the home and to communicate wagers from the home to a pari-mutual facility constitutes an "interactive computer service."

Mr. KYL. Yes.

Mr. MCCONNELL. Will such an interactive account wagering system that accepts wagers only from account holders physically located within the same state as the facility where the account wagering system originates pass muster under section 3 of S. 474?

Mr. KYL. Yes, assuming the interactive account wagering system meets the requirements for a "closed loop subscriber-based service" as defined in section 3 of the bill.

Mr. MCCONNELL. Senator Kyl, does a person have to be physically present at a facility that is open to the public to make a lawful interactive account wager?

Mr. KYL. Again, so long as the person placing the wager is doing so using a "closed-loop subscriber-based service" the person is not required to be physically present at a facility that is open to the public to make a lawful wager.

Mr. MCCONNELL. What if the facts are the same as my first interactive account wagering question (i.e., both customer and facility are physically present in the same state) but the race on which the account holder is wagering is being contested in another state?

Mr. KYL. Yes, assuming of course that the wagering pools are being commingled in accordance with section 2 of the bill and further assuming the account wagering system meets the requirements for a "closed loop subscriber-based service."

Mr. MCCONNELL. Senator Kyl, just a few more questions and we will be finished.

In section 3, Section 1085(e)(2) of the bill, you prohibit the use of an agent or proxy to place wagers unless the agent or proxy is acting on behalf of a licensed parimutuel facility "in the operation of the account wagering system originated by the facility." What if a facility licensed to operate an account wagering system engages a separate company to provide the technical expertise necessary to implement an interactive account wagering system on its behalf? Would such an agency fall within the scope of the permitted agency provisions of the bill referenced above?

Mr. KYL. Yes, such a system is an allowed agent, assuming, of course, the interactive account wagering system meets the requirements for a "closed-loop subscriber-based service that is wholly intrastate."

Mr. MCCONNELL. thinking back to our earlier discussion of a "support service" what if the facility where the interactive account wagering system originates chooses to utilize support services such as a totalizator system or an interactive computer system located in a second state or even a foreign country to service the account holders.

Mr. KYL. The use of such support services does not change the result assuming the account wagering system originates in a "closed loop subscriber-based service that is wholly intrastate."

ENFORCEMENT

Mr. MCCONNELL. Finally, Senator Kyl, section 4 of the bill spells out in great detail the civil remedies available to U.S. Attorneys and State Attorneys General to enforce the provisions of S. 474. Section 5 likewise calls for the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General of the United States and the Secretary of Commerce, to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

Nonetheless, many are concerned that this legislation will not be "enforcible to enforce. If the only entities that obey it are the legitimate, state-licensed parimutuel operators, which they will, while others outside the jurisdictions of the federal and state authorities do not then you still have the potential for consumer fraud while not producing any revenues for the federal government, state governments or the racing industry itself.

Mr. KYL. Senator McConnell, I am confident that the Justice Department and the National Association of Attorneys General will vigorously enforce this legislation.

Mr. MCCONNELL. Senator Kyl, once again, I thank you and your staff for your hard work and tenacity in bringing this issue before the Senate. I also thank you for your patience in working through these very complicated issues.

Mr. KYL. With all due respect, you are welcome. I am very pleased that we have been able to work together to protect legitimate, law abiding interests who make significant contributions to the nation's economy.

Mr. LEAHY. Mr. President, I have long been an advocate for legislation that ensures that existing laws keep pace with developing technology. It is for this reason that I have sponsored and supported over the past few years a number of bills to bring us into the 21st Century. These bills have included the National Information Infrastructure (NII) Protection Act of 1995; the Criminal Copyright Improvement Act of 1997; the WIPO Copyright and Performances Protection and Trademarks Implementation Act of 1997; the Digital Millennium Copyright Act of 1998; and legislation that passed the Senate on June 26, 1998, to authorize the comprehensive, independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.
This same impetus underlies my support of legislation to ensure our nation’s gambling laws keep pace with developing technology, particularly the Internet. The Department of Justice has noted that “the Internet may have the potential to undermine the effectiveness of efforts to enforce current gambling statutes, in part because existing laws may relate only to sports betting and not the type of interactive gambling (e.g., poker) that the Internet makes possible.” Vermonter have spoken very clearly that they do not want current laws to be rendered obsolete by the Internet. I believe, therefore, that there is considerable value in updating our Federal gambling statutes, and I have been pleased to work with Senator Kyl on his legislation intended to accomplish that goal, the Internet Gambling Prohibition Act of 1998.

The legislation has been improved since it was reported out of committee. The Senate Judiciary Committee reported out the bill on October 23, 1997. Although I voted in favor of the legislation at that time, I noted that I had several concerns about the bill and that I wished to work with Senator Kyl and others to address these concerns.

The bill as originally drafted might have inadvertently outlawed the tri-state lottery that is run by the states of Vermont, New Hampshire, and Maine. Although Vermonters have clearly indicated that they do not want many other forms of gambling, they do want to maintain this tri-state lottery, which has been in operation since 1985.

The legislation now under consideration states that the prohibitions against Internet gambling in the bill shall not apply to any otherwise lawful bet or wager that is placed, received, or otherwise made for a multi-state lottery, or activity between one or more States in conjunction with State lotteries, if the lottery or activity is expressly authorized and licensed or regulated under Federal or applicable State law.

I would like to thank the office of Vermont’s Attorney General for working with Senator Kyl and me to craft this language to ensure that Vermont, New Hampshire and Maine’s tri-state lottery remains a permissible activity under consideration.

As originally introduced, the bill contained Sense of the Senate language that the Federal Government should have extraterritorial jurisdiction over the transmission to or receipt from the United States of bets or wagers, information assisting in the placing of bets or wagers, and any communication that entitles the transmitter or recipient to the opportunity to receive money or credit as a result of bets or wagers.

That provision was changed, and when the bill was reported out of the Judiciary Committee, the Sense of the Senate provision was replaced with a requirement that not later than six months after the date of enactment, certain Administration officials would be required to commence negotiations with foreign countries in order to conclude international agreements that would enable the United States to enforce the bill.

I was concerned about the constitutionality of this new requirement mandating that the Executive Branch undertake international negotiations, particularly in light of the decision of the 1993 U.S. Court of Appeals for the Ninth Circuit in Earth Island Institute versus Christopher. The court in this case held unconstitutional a portion of a statute which directed the Secretary of State to initiate international negotiations regarding the protection and conservation of a certain species of sea turtles.

Specifically, the court held this type of directive to intrude upon the conduct of foreign relations by the Executive Branch on the ground that the “Constitution commits the power to make treaties to the President.”

The Department of Justice also recommended the deletion of this section. Assistant Attorney General, stated in his May 28, 1998, letter to me on this legislation:

If we request that foreign countries investigate, on our behalf, conduct that is legal in their country, we need to be prepared to receive and act upon foreign requests for assistance when the conduct complained of is legal, or even constitutionally protected, in the United States.

For example, if we ask a foreign country to investigate an activity (e.g., gambling) that is legal in the foreign state, that country may, for example, ask us to investigate constitutionally protected speech originating on computers based in the United States (e.g., that arguably violates that nation’s “hate speech” laws). Considering all of the challenges facing law enforcement in the information age, we believe that current efforts should focus on conduct which either is, or should be constitutively criminalized by this legislation. For example, we might consider amending the legislation to make it applicable to computers based in the United States (e.g., that arguably violates that nation’s “hate speech” laws). Considering all of the challenges facing law enforcement in the information age, we believe that current efforts should focus on conduct which either is, or should be constitutionally criminalized by this legislation.

I was concerned, as was the Department of Justice, that this language was vague and might raise constitutional concerns as it might be construed to apply to persons who do not have the intent to participate in or assist illegal gambling.

Similarly, these earlier versions of the legislation could have been interpreted to prohibit Internet advertising of activities that are entirely legal. This appeared to be an unintentional result of the earlier versions, but one that raised serious constitutional issues.

The Department of Justice suggested deleting subsection (B) altogether, and inserting the phrase “in violation of state or Federal law” at the end of subsection (A). The addition of this latter phrase would ensure that transmission of information assisting in the placing of legal bets or wagers would not be criminalized by this legislation. Senator Kyl agreed to this modification (B), but he did not add the phrase “in violation of state or Federal law” at the end of subsection (A). I hope this later suggestion by the Department of Justice is accepted as the legislation moves through the legislative process.

In the bill as originally introduced, an individual bettor who was found guilty of Internet gambling would have been subject to a penalty of $5,000, one year of prison or both. I thought that penalty was extreme. If someone places a $1 bet on a bet that might not be activity we want to encourage, but I also do not think we need to lock that individual up in prison and charge him or her 5,000 times that amount in penalties. I expressed my concern to Senator Kyl, and as a result he softened the penalty for individual bettors.

As the bill currently reads, the individual bettor would be subject to (A) fines not more than the greater of (i) $100,000 or (ii) $100 times the total amount that the individual is found to have wagered or received or (ii) $500; (B) 3 months prison; or (C) both. I hope that prosecutors and judges will use proper discretion when determining, even under this more reasonable regime, whether to expend federal resources prosecuting and imprisoning individuals who place de minimis bets.

The bill as introduced criminalized the activities of those persons engaged in a “business of betting or wagering,” but the bill did not define what constituted a “business of betting or wagering.” I believe that it is important that if Congress is going to make certain activities illegal, and subject the executor of that activity to hefty monetary fines and imprisonment, we need to be very clear about what activity, exactly, we are making illegal.

The version of the bill that is now under consideration makes it unlawful for any person engaged in a gambling business for betting or wagering to use the Internet or any other interactive computer service. The bill defines the term “gambling business” as a gambling business that involves one or more persons who conducts, finances, manages, supervises, directs, or owns all or part of such business and has been or remains in substantially continuous operation for a period in excess of 10 days or has a gross revenue of $2,000 or more during any 24-hour period.

Although I preferred to use the definition of an “illegal gambling business” found in 18 U.S.C. 1955, I believe...
the bill as it currently reads is an improvement from the original version, and I appreciate Senator Kyl's willingness to work with me on this issue.

In addition, language was inserted into the bill which dictates special rules applying in any case in which ing instituted under the bill in which application is made for a temporary restraining order or an injunction against an interactive computer service. I was not party to the negotiations on this language, nor am I convinced that this language is necessary. Courts, when determining the appropriateness of equitable relief, generally consider factors such as the significance of the threat of irreparable harm to a plaintiff if the injunction is not granted; the state of the balance between this harm and the injury that granting the injunction would inflict on the defendant; the probability that the plaintiff will succeed on the merits; and the public interest. It has not, to date, been brought to my attention that these traditional standards are not adequate to address situations involving interactive computer services, and I fear that this new language in the bill might cause more mischief than it would prevent. I believe that we can continue to work on this language as the bill advances through the legislative process.

Finally, the Senate has accepted an amendment by Senator Craig which include a provision addressing Internet games known as "sports fantasy leagues". I understand that many of the companies that offer these sports fantasy league games are concerned about the wording of this provision. I also understand that they will be seeking refinements in the language as we move through the legislative process, and I look forward to working with them as well as Senator Bryan and Senator Kyl in that regard.

Mr. President, I want to note that an interactive computer service whose facilities or service are used by another person as a means of communication to engage in an activity prohibited by section 1085, and where the interactive computer service does not have the intent that such facilities or service be used for such illegal activity, shall not be considered to violate subsection (b)(1)(B).

Mr. KERRY. Mr. President, I would like to direct a few comments to Senator Kyl's amendment adding the Internet Gambling Prohibition Act to S. 2260, the Commerce, Justice, State Appropriations bill. I join with my colleague in opposing unrestricted gambling on the Internet, and I support the adoption of his amendment. However, there are often a variety of reasonable approaches to a problem, and we should be careful not to over-legislate. This is true especially with respect to a vital new frontier like the Internet. We must promise to be an engine of growth for our economy and a source of unprecedented benefits to our citizens for years to come. We need to think carefully before government commandeers the electronic network, through online service providers, in the pursuit of conduct we don't like. While I do not object to asking service providers to cooperate in ways that do not involve commandeering the network, the growth and flow of Internet traffic, I am not convinced that the provisions of the current proposal strike the proper balance. In addition, there is a high risk that we may inadvertently sap the vitality of the Internet if we start to require service providers to serve as an arm of our law enforcement agencies. It is my hope that we can address these concerns as we go to conference with the House.

Mr. JOHNSON. Mr. President, I rise today in strong support of the amendment offered by Senators Kyl and Bryan with respect to gambling on the Internet. I am an original cosponsor of S. 474, the Internet Gambling Prohibition Act of 1997, as introduced in March of this year. The Senate and House version of this legislation in the 104th Congress because I am committed to preventing children's access to gambling on the Internet and the harm to the American public in general that is sure to follow unregulated gambling. Gambling in this country has always been a very regulated activity no matter where it takes place. Unfortunately, we are now faced with a potentially explosive Internet gambling situation. States have become so concerned about this problem that state attorney's general nationwide have filed suits against gambling operators on the Internet. The Kyl-Bryan amendment clearly defines objectionable Internet activity and establishes guidelines for law enforcement to crack down on those who solicit wagering on-line. The bill applies existing laws against telephone betting or wagering to all electronic transmissions. This Internet gambling ban will be applied to those who accept bets and those who do the betting.

While the Internet provides our children with many educational opportunities, we must closely scrutinize the industry to ensure that children are not let into the world of unregulated gambling. Preventing children or addicted gamblers from being able to gamble in an unregulated fashion on their home computer would be one of our highest priorities as we venture into the new and dynamic area of regulating electronic commerce.

However, as important as the Internet gambling ban legislation is to protecting this nation's children, I feel compelled to state my concerns about the impact of several provisions included in the pending version of the Internet gambling ban legislation as they may impact Indian tribes. I want to take this opportunity to express my support for Senator Craig's second degree amendment aimed at addressing several of these provisions. Under the Kyl amendment, the Indian Gaming Regulatory Act (IGRA) would be amended without any involvement or input by the committee of jurisdiction, the Senate Indian Affairs Committee, or any tribal consultation.

Senator Craig's amendment would make it clear that all activities fully regulated by the federal government and permitted under the IGRA are not impacted by the Kyl amendment. I believe the Craig amendment is not a carve-out or loophole for unregulated Internet gambling. I am most importantly, I expect the Senate to respect the committee of jurisdiction on this issue and invite the input of impacted Indian tribes.

As the Indian tribes in my state will attest, Indian Gaming is a regulated industry. Poverty, unemployment, poor health and welfare dominate much of reservation life across the country. With budget cuts to the BIA and other federal support programs for Indians, Congress must more than ever encourage economic self-sufficiency at the tribal level. If there are shortcomings with the effectiveness of the current IGRA, they should be addressed with tribal consultation. I am troubled at the prospect of Internet gambling sites opened by any entity, but again, so far as this concern deals with already regulated Indian gaming, it ought to be addressed in separate legislation.

Like Senator Craig, I do not want to encourage special treatment or special exemptions for Indian tribes. I just expect equitable treatment of currently regulated Indian gaming activities and, most importantly, I expect the Senate to respect the committee of jurisdiction on this issue and invite the input of impacted Indian tribes.

As the Indian tribes in my state will attest, Indian Gaming is a regulated industry. Poverty, unemployment, poor health and welfare dominate much of reservation life across the country. With budget cuts to the BIA and other federal support programs for Indians, Congress must more than ever encourage economic self-sufficiency at the tribal level. If there are shortcomings with the effectiveness of the current IGRA, they should be addressed with tribal consultation. I am troubled at the prospect of Internet gambling sites opened by any entity, but again, so far as this concern deals with already regulated Indian gaming, it ought to be addressed in separate legislation.
existing Indian gaming regulations and law. I will urge the Senate Indian Affairs Committee to continue moving forward on this matter.

Mr. President, as an original cosponsor of S. 474, I am nevertheless committed to the Internet Gambling Prohibition Act because the bottom line of this legislation is protecting our citizens and especially our kids. I am aware that the Justice Department believes overall enforcement of this law will be difficult, but I feel strongly that the time has come for Congress to push this issue and instruct Justice to develop the necessary enforcement capabilities and end unlawful Internet gambling. I will support the Senators from Arizona and Nevada, and will work with the Senators and the conference on this appropriations bill to address the remaining issues of concern to tribes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. MCCAIN. Objection.

The PRESIDING OFFICER. Is there objection to the request?

Mr. MCCAIN. Objection.

Mr. BYRD. Mr. President, let's get it straight what this does. All of you came to me and said, "I can't vote for the Craig amendment because it expands gambling on the Internet." What the Kyl amendment does is make what is now illegal legal for certain carved-out exceptions which benefit—and there is nothing wrong with this, depending on your interests—which benefit certain segments of the gambling industry. That is what this does.

If I had more than a minute, I would explain in more detail. This expands gambling. It does not cut back on gambling. It says, a little phrase says exceptions: 'Under current law, Internet gambling is illegal because you use a wire.' Under the current law, Internet gambling is spreading all over. There are 140 web sites, $1 billion. We seek to close that hole. The Kyl-Bryan amendment seeks to prohibit Internet gambling for everyone—for everyone—so it is not an expansion of gaming.

We want to take gambling off the Internet so kids, libraries, and everybody else who can dial up on the Internet these days will not have access to an Internet gambling site. There are currently 140 web sites, $1 billion. We seek to do something about that which is as wrong as it was before. And now there will be 500 if we don't close this hole. The Christian Coalition, everyone from major league sports teams to the attorneys general to the consumer groups all support this amendment.

The PRESIDING OFFICER. The time allocated to the Senator has expired. The Senator from Delaware has 1 minute.

Mr. BIDEN. Mr. President, that is the first part. Read the second part. It says, a little phrase says exceptions: 'Exceptions—Otherwise lawful bets or wagers that are placed, received or otherwise made wholly interstate for State lotteries, racing or parimutuel activity. Exceptions.'

Let me point out one other thing. Under current Federal law, it is illegal to take a bet using a telephone wire, which is not a current law, basically all Internet gambling is illegal because you use a wire.

Under the Kyl amendment, it would become legal to take a bet on the Internet if the States where the bettor placed and received authorized the bet and the bettor is a subscriber of a gambling company's network. This is an expansion. Expansion.

If you want to do something about the Internet, strike exceptions, and I promise you, the sponsors will vote against this. Strike exceptions. If you don't want any betting using the wire, strike "exceptions."

The PRESIDING OFFICER. The time allocated to the Senator has expired.

The question is on agreeing to amendment No. 3266. The yeas and nays have been ordered. The clerk will call the roll.

Mr. BIDEN. Mr. President, that is the second part.
Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title II, insert the following:

SEC. 2. COMPENSATION OF ATTORNEYS.

(a) CONTROLLED SUBSTANCES ACT.—Section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(2) by inserting after subparagraph (A) the following:

``(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the attorney is located, for work performed for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation shall be granted for the calendar month in an amount that exceeds the maximum amount specified in clause (i).''.

(b) ADEQUATE REPRESENTATION OF DEFENDANTS.—Section 3006A(d)(3) of title 18, United States Code, is amended—

(1) by striking "Payment" and inserting the following:

``(A) IN GENERAL.—Subject to subparagraph (B), payment;'' and

(2) by adding at the end the following:

``(B) MAXIMUM PAYMENTS.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).''

The PRESIDING OFFICER. There are 10 minutes equally divided on this amendment between the Senator from Oklahoma and the Senator from New Mexico.

Mr. NICKLES. The amendment I send to the desk on behalf of myself, Senator INHOFE, and Senator SESSIONS would try to bring some balance on what we pay for court-appointed attorneys in Federal death penalty cases. Right now, we find out that in a case conducted in Colorado, the so-called McVeigh case, Oklahoma City bombing case, the defense attorneys—these are court-appointed, taxpayer-financed attorneys—are being compensated at a rate much higher than we pay U.S. attorneys.

I wasn't aware of this. I didn't know about it until the U.S. attorneys from Oklahoma mentioned to me that in some cases, court-appointed defenders are paid at rates maybe three, four, or maybe five times as much as they are paid.

Just to give you the figures, the U.S. attorneys in most places around the country are paid $118,000.

A court-appointed defense attorney is paid $125 per hour. In some of these cases, like the Oklahoma City bombing case, it is not unreasonable that they might work 80 hours or more per week. That means they make $10,000 a week. A U.S. attorney makes $10,000 a month—actually, a little less than that. So the essence of this amendment is that where we have court-appointed attorneys more than we pay U.S. attorneys, I think the court-appointed attorney and I think 13 assistants, all of whom would be eligible to receive these large sums.

So I thank my colleague, Senator SESSIONS, who is a former U.S. attorney, and also my colleague, Senator INHOFE. I hope we can adopt this amendment.

Mr. GREGG. Mr. President, I rise in support of the amendment. I think it is an excellent amendment. It is an issue that we have raised a number of times at the subcommittee level with the judges. We are not only concerned about the numbers, but about the money being skewed, but we are especially concerned about the fact that in capital crimes we are spending an extraordinary amount of money on defense counsel—over a million dollars in many instances, which comes right out of the taxpayers' pockets. It is very difficult and it skews the entire ability to do other defense work because of how much money is pouring into the capital crime area.

This specific amendment is right on target. I strongly support it. I hope we will not have to go to a vote on it, but if we do, I hope we can agree to this.

Mr. HOLLINGS. Mr. President, Senator LEAHY of Vermont is presently conducting a hearing, and he is in opposition to this. He is unable to be here to speak at this time.

I am persuaded by the Senator from Oklahoma. I yield whatever time is necessary to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I rise just to clarify. When you are talking about the take-home pay for the court-appointed counsel to be paid to a certain amount of funds they take with which to pay for their law firm's ability to participate in the case. I think that is clearly a figure that bears very little resemblance to what the U.S. attorney gets in salary and the paycheck that he takes home at the end of each month.

I think you are trying to put an artificial limit on what the court-appointed counsel can get, which I think is a real disservice to the criminal justice system and the American people and the taxpayers.

Frankly, the hourly fee I got for court-appointed work was substantially less than the hourly fee I got for any other work. And I assume that is still the case. So I think to make the comparison he is making and say the U.S. attorney gets $118,000 and the court-appointed attorney gets $125 per hour, and that we should try to make a comparison there, I think it is really very undesirable and inappropriate. Because, in fact, the U.S. attorney has a tremendous office arrangement, with support of all kinds, in addition to his salary, whereas the court-appointed attorney gets none of that.

Mr. NICKLES. If the Senator will yield, I want to make clear that what we are talking about is compensation. We are talking about payments, not take-home pay. The Senator from New Hampshire mentioned that in these Federal cases expenses are allowed. I am talking about compensation. I also might mention that, in Oklahoma, I compared what we pay in Oklahoma for a capital case; there is a $20,000 cap—$20,000 to the lead attorney, and for co-counsel, $5,000.

I might mention, on other cases on the Federal level—for a felony case, we have caps at $3,500. All I am talking about is having a cap equal to the salary. So we are talking salaries, not about other benefits.

Mr. BINGAMAN. Mr. President, if I could ask the Senator, does his amendment contain a cap as to each case? Is he saying that each capital case will be limited to a certain amount that can be spent on the defense attorney?

Mr. NICKLES. To respond to my colleague, we are talking about much, not per case, but per attorney. We did not limit the number of attorneys. We just didn't want to be in a situation where a U.S. attorney is hiring additional counsel and to have the defense counsel say, "Hey, we can pay three or four times more. Come fight on our side of the case."

Right now, in the case of the Oklahoma City bombing case, the defense attorneys made—I am not talking about expenses—they individually made probably three or four times as much as U.S. attorneys. I think that is inequitable. I am talking about what they receive in take-home pay, per attorney.

Mr. BINGAMAN. Let me just clarify. When you are talking about the take-home pay for the court-appointed counsel to be paid to a certain amount of funds they take with which to pay for their law firm's ability to participate in the case, I think that is clearly a figure that bears very little resemblance to what the U.S. attorney gets in salary and the paycheck that he takes home at the end of each month. I think you are trying to put an artificial limit on what the court-appointed counsel can get, which I think is a real disservice to the criminal justice system and the American people and the taxpayers.
of work that court-appointed counsel are able to do on behalf of criminal defendants. To that extent, I think it subverts the criminal justice system. I oppose it.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 1 minute 48 seconds.

Mr. NICKLES. Mr. President, certainly, my colleague has a right to oppose the amendment. Let me capsize it again. We have a situation where Federal death penalty cases—many of them—are being handled in the States and most States have caps. My State has a cap of $20,000 for the lead attorney. We are not doing that. We are not capping what somebody can pay for their private attorneys. They can pay their private attorney anything they want to.

Since we are talking about court-appointed attorneys, they are going to be paid for by the taxpayers, like we pay U.S. attorneys. I am saying that we should not pay that individual—their compensation, not their overhead or expenses. There are other items—three or four times as much as we pay the U.S. attorneys.

I didn't even say we would limit the number of attorneys. I want people to have an adequate defense. In the McVeigh case, the defense counsel had 13 or 14 attorneys. The expenses are going to come out and be public, and people will be outraged. I am trying to have basic equity. I don't think they should make more than a U.S. attorney. I think that is a real outrage. Then when you find out they might have made three or four times as much money as a U.S. attorney—and again, I am not talking about expenses, I am talking about what they make—that is an injustice. We need equity and balance. That is why I have proposed this amendment. I hope my colleagues will vote for it.

Mr. President, my colleague from South Carolina says U.S. attorneys almost make as much as U.S. Senators. Most of us work a little more than 40 hours a week. Again, I just urge my colleagues to support the amendment. I will ask for the yeas and nays if my colleague from New Mexico wants them.

Mr. BINGAMAN. I don't require the yeas and nays. I would like to be reported as voting against the amendment.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the order, the amendment will be stacked to be voted on later.

Who seeks recognition?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3273

(Purpose: To prohibit from trademark the flag, coat of arms or other insignia of any federally recognized Indian tribes)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 3273.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert: Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,” approved July 9, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (b) by inserting “or of any federally recognized Indian tribe,” after “State or municipality.”

Mr. BINGAMAN. Mr. President, the amendment is a simple amendment to correct a longstanding error in what is known as the Lanham Act, the statute that controls what can and what cannot be trademarked.

In doing so, let me indicate my appreciation to Senator LEAHY and Senator INOUYE for their support and, of course, my colleague Senator DOMENICI.

Mr. President, the Lanham Act of 1946, the primary statute governing what can and cannot be trademarked, protects flags, coats of arms, and official insignia of the United States, States, municipalities, and foreign nations.

It essentially says those cannot be trademarked. However, the act neglects to protect the insignias which belong to American Indian tribes. I believe strongly that this was an oversight. It is time we corrected the oversight.

Significantly, I want to be clear that in offering this amendment, I do not intend to affect existing trademark rights that may already have been conferred under this act. This amendment also does not have an effect on any current existing, non-trademarked usage of these tribal insignia but only sets out to prohibit the trademarking of tribal insignia in the same way a State’s, municipality’s, foreign nation’s, and the United States’ insignia currently is protected.

A key point that must be made here is that tribal governments are recognized as forms of government listed under the Act and should be treated in the same way. In the case of the United States governments, the Lanham Act originally was passed in 1946, and at that time, there was not as much recognition of the governmental status that federally-recognized Indian tribes hold. Today, however, we understand more than ever that tribal governments are sovereign and should be respected as such. Thus, it is an appropriate time to include federally recognized tribes for protection under the Lanham Act.

Significantly, tribal insignia often are considered sacred by a respective tribe, and for that reason they should be prohibited from trademark.

The Lanham Act protects from trademark anything that would disparage a belief. For example, if someone wanted to trademark a crucifix, Star of David, or Madonna and Child, in such a way that would disparage any one of those significant symbols, the trademark office is directed by law to deny that application for trademark.

However, there are no similar protections for the many symbols that American Indian people hold very sacred. For example, the Zia pueblo, which is located in New Mexico, holds very sacred a symbol they refer to as the Sun symbol. This symbol is probably familiar to many people because it appears on the flag of the State of New Mexico. It is a very popular symbol among businesses and artisans. The Pueblo of Zia generally does not take particular issue with the use of the symbol unless there is an attempt to have the symbol trademarked, the use of which would disparage their religious beliefs. Clearly they have a real interest in seeing it be protected. It does not come along and trademark the insignia that the tribe has always claimed as its own. Unless you are a tribal member, you could not appreciate the significance of the symbol. In fact, Zia Pueblo holds the symbol so sacred that it would be against their religious beliefs to disclose to anyone outside of the tribe how they use the symbol in their sacred rituals.

Indeed, applications have been submitted to the Office of Patents and Trademarks, and each time an application is submitted, the Pueblo must contest the application. This involves substantial legal costs to the Pueblo, and the Pueblo Tribe is not in a financial circumstance where it can take on those legal costs in an indefinite future.

The Pueblo is located in a very isolated, desolate area of the state and has very high unemployment. I admire the Pueblo because of centuries-old traditions and beliefs in spite of that great economic hardship. They are a non-gaming tribe and have few resources for water treatment facilities, schools or other vital services. Nonetheless, the Pueblo is contesting the trademarking of a symbol that they hold very sacred. The problem is pervasive among all twenty-two tribes in New Mexico and among all American Indian tribes nationwide.

It is not sufficient to have a statute in place that protects every form of government, even foreign nations, but it does not protect American Indian governments.
By simply inserting "federally recognized Indian tribes" in a list that already includes "United States," "States," "municipality," and "foreign nation," my amendment will provide for exceptions and say that you cannot trademark the insignia of the United States, States, municipalities, and foreign nations. We are saying we should assert federally recognized Indian tribes as another one of the categories that enjoys this same protection.

To me, it is a very straightforward amendment. I see no real basis for anyone opposing the amendment. I hope that all of my colleagues will support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair would like to clarify that the time remaining to the proponents is 5 minutes and 30 seconds, and for the opponents, 10 minutes.

Does anyone seek recognition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order be evenly charged against the two sides, and I request the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. 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. BINGAMAN. Mr. President, I yield the remainder of my time, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be postponed.

Mr. BINGAMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I yield the remainder of my time.

Mr. GREGG. 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. GREGG. 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. GREGG. 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. GREGG. 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. GREGG. 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. GREGG. 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. GREGG. 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. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.
The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3274) was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, I make a point of order which the order for the quorum call be rescinded.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment is so ordered.

AMENDMENT NO. 3275

(Purpose: To prohibit the Administrator of the Environmental Protection Agency from implementing or enforcing the public water system treatment requirements related to the copper action level of the national primary drinking water regulations for lead and copper until certain studies are completed)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for himself and Mr. HAGEL, proposes an amendment numbered 3275.

Mr. KERREY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

(b) The Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that:

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(b) based on the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations are related to the copper action level.

Mr. KERREY. Mr. President, this amendment is offered by myself and my colleagues from Nebraska, Senator HAGEL. We intended to take it on for a brief period of time and then we will withdraw the amendment.

I offered this amendment in a similar fashion on the HUD and independent agencies appropriations bill. We, since that time, entered into negotiations with the Environmental Protection Agency and it is possible that the problems we have in Nebraska will be resolved. It is also possible that the issue does not get resolved and that is the case, I want to alert my colleagues that there will be an opportunity to vote on this amendment at some point, if Senator HAGEL and I and the rest of the Nebraska delegation are not able to get satisfaction from the Environmental Protection Agency. As I said, they are attempting to work with us at this point to try to resolve this problem.

The problem simply stated is that, under the rulemaking of the Safe Drinking Water Act, there was established a lead and copper rule. Under the procedures of the Safe Drinking Water Act, these rules get reviewed every 6 years, so it is an appropriate time—it has been 7 years—an appropriate time for us to be reevaluating the science supporting the rule itself. That is essentially what we are challenging to begin with.

There is not a single city in Nebraska that has copper in excess of 1.3 milligrams in its water supply. So, you say, what is the problem? The problem is that if water sits in copper pipes overnight, the first draw on that water will have in it. That is what the Safe Drinking Water Act is all about. If you don’t have a public health problem, you should not, in my judgment, be requiring the municipalities to make an investment that produces no benefit. That is basically what we are talking about.

The municipalities have a limited amount of money. They have to go to their taxpayers to pay for any treatments to drinking water. We go to taxpayers through the state revolving loan fund. We then provide funds to the States and the municipalities make the determination: How do we spend our money so as to maximize the public health in our community?
The states and the municipalities are telling us that they don't see a public health problem with copper, but they are willing to try to work with the Environmental Protection Agency to solve this problem.

Mr. President, first of all, we have asked the Environmental Protection Agency to allow the National Academy of Sciences to impanel a study group to evaluate the science that underlies this standard—a peer reviewed evaluation—and come back and say: This is our current estimate based upon reviewing all the science, particularly the peer-reviewed science that is out there; this is what we see the current situation to be.

Allow EPA, in short, to do what the Safe Drinking Water Act says it is supposed to do, which is to review these regulations once every 6 years. It has been 7 years. There is plenty of evidence that would indicate it is time for a peer reviewed standard, increased public health problems in Nebraska, which is that we are not experiencing public health problems in Nebraska.

In our negotiations—Senator HAGEL, Congressmen BEREUTER, CHISTENSEN and BARRETT—we had a meeting yesterday with EPA. We are asking EPA to empower and to contract with the National Academy of Sciences to do a study of the science under this rule to determine whether 1.3 milligrams per liter is reasonable. If we get a “yes” on that request, which we don't have at the moment—as I said, my colleagues may be spared the opportunity of coming down here and voting on this amendment.

There is another problem we are experiencing with EPA. Again, we talked with region 7, and we talked, as well, with Administrator Browner, and perhaps we can get true flexibility. We have asked for flexibility in dealing with this problem. I will describe for my colleagues one of the things the Nebraska department of health asked the Environmental Protection Agency for, in terms of flexibilities in implementing this rule, and the answer from EPA was no. They asked if it would be OK if the State of Nebraska paid for the removal of copper piping and copper fixtures, get rid of the copper altogether as a solution to this problem. The answer from EPA was that this is not one of the acceptable solutions that is on their list.

Eliminating the copper was not an acceptable solution to the EPA, Mr. President, nor was it acceptable to engage in a significant public health campaign to help people understand—and to ask them to flush, once a day, the water in their systems to remove the copper that leached into the water after being in the pipes—especially in smaller communities where you have a relatively small audience. EPA was saying things like, “Well, yeah, but somebody could get up in the middle of the night and have to go to the bathroom and maybe forget and take a drink of water.”

This is the sort of reason given to people to support legislation like the Safe Drinking Water Act? We want the people of Nebraska to have the assurance of keeping our people safe, but when we hear rationale like this, we scratch our heads and wonder whether not it is all worthwhile.

We seem to frequently run into this sort of indolence to bring common sense to the process. I am hopeful that Administrator Browner—she was very positive yesterday—I am hoping Administrator Browner will, first of all, ask the National Academy of Sciences to do a study of the underlying science, which is overdue given the conflicting analyses we have seen; and, second, to direct region 7 to work with us to get a flexible plan that enables us, bottom line, to have our cities and our States saying to us, “We have identified a solution, a way of dealing with this; here is what is going to cost us; we are willing to make this investment.”

Understand, at the community level where they are drinking the water, they are saying, “These are public health problems that are much larger than this. We don't have anyone getting sick from copper. We understand you all think we ought to be getting sick at these levels, but we are not. We are willing to work with you and willing to make an investment, but we want that investment to be justified. We want the cost to track somehow with the benefit. We want to be able to say here is the benefit we are getting with the cost of the expenditure itself.”

I am pleased to inform my colleagues, at the conclusion of Senator HAGEL’s and my remarks on this, we are prepared to withdraw this amendment today through the process of voting on this at this time. But if we are not able to get a satisfactory answer from Administrator Browner, I inform my colleagues there will be an opportunity to vote on this amendment.

My guess is that any of you out there who have municipalities that are discussing this with the Environmental Protection Agency—I guarantee you, all you have to do is talk to your colleague Mr. President, and ask them how it worked. They implemented the EPA plans for copper removal, and it hasn't worked in nearly half of the 130 water systems they were forced to treat. They did everything the EPA told them to do to reduce copper levels, and it didn't work. They still have the problem and are now scratching their heads and trying to figure out what they are going to do next.

Mr. President, I appreciate the indulgence of Senator from South Carolina and the Senator from New Hampshire and other colleagues. I look forward to coming to the floor and saying that this issue is satisfactorily resolved. Administrator Browner, I believe, is making a good-faith effort, but we have a ways to go before we are certain we don't have to come back and appeal to our colleagues, who are likely experiencing similar things, to give us the chance to have the time to allow these scientific studies to be reviewed, and possibly, this rule revised.

Mr. President, I yield the floor. The PRESIDING OFFICER. Nine-and-a-half minutes remain for the proponent. The Chair recognizes the junior Senator from Nebraska.

Mr. HAGEL. Thank you, Mr. President.

Mr. President, I rise to support this amendment sponsored by my good friend and colleague, the senior Senator from Nebraska, Senator KERREY.

As Senator KERREY has very directly stated, this amendment is an attempt to bring some much-needed common sense—common sense—to the EPA regulatory process. We are not in any way attempting to amend the Safe Drinking Water Act.

I comment on my colleague from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, Senator CHAFFEE, for his hard work in crafting this bill over the years and having brought it up to date and focused on what is important, and the need to protect the safety of our drinking water. It is important that we be clear on this point. We are not attempting to amend the Public Works Committee’s hard efforts, the Safe Drinking Water Act. No attempt is being made to amend the Safe Drinking Water Act.

What we are asking here is EPA delay the enforcement of copper regulations until the completion of scientific studies that are already underway. Regulations imposed by the EPA that copper levels in drinking water are unrealistic and will impose financial hardships on a number of communities in Nebraska. Is it too much to ask—really, is it too much to ask—that scientific studies be completed before costs are imposed? Mr. President, that is just common sense.

The town of Hastings, NE, population 23,000, will be forced to pay over $1 million in the first year to comply with these onerous regulations and $250,000 in the year after that. More than 60 Nebraska water systems face similar financial burdens because of the EPA’s enforcement of these copper regulations.

The most incredible part of this issue is that the EPA has not proven that there is a health risk. As my friend, Senator KERREY, said, they want to prove it; they want to tell us we have it, but they can't make the scientific link. The EPA used case studies to set these copper levels, some of which are over 40 years old, and often included only a few people. One EPA case study from 1957 refers to 15 nurses, 10 of which got sick after drinking cocktails
with between 5.3 and 32 milligrams of copper—very strong scientific evidence.

Yet, a 1994 interim study conducted by the Centers for Disease Control and Prevention found that EPA's copper standards for human consumption are based on unnerving, is the fact that cities are being faced with substantial costs under this rule. We un-

The State of Nebraska has attempted to make its case with the EPA but has been of drinking water has been one of supreme arrogance. Some of my colleagues may wonder why this is such a problem in Nebraska. Why haven't they heard about this in their States? Well, Nebraska is unique, not only because we play decent football, Mr. President, but also because we rely, at least exclusively, on groundwater for our water supplies. Because of this, some towns and cities in Nebraska do not have a central water system but a number of systems that feed into the main system. For these towns of Nebraska, treating drinking water means treating each individual well, which drastically increases costs. And for what? The people of Nebraska do not want unsafe drinking water; of course they don't. If there is a health risk, they would pay to have the water treated. But when the scientific evidence shows no health risk, when the EPA rejects every commonsense alternative—many of what my colleague from Nebraska talked about—what are the people of Nebraska to do? They have turned to their congressional delegation. They have turned to their Congress and asked for help. The new delegation gives Congress the authority to decide whether or not Federal agencies can spend the money of the American taxpayers, what they spend it on, and why they spend it. Too often we have neglected this authority and let Federal agencies run right over the American people, the very people who pay the bills—the taxpayers. But we don't have a voice. That is why Senator Kerrey and I are on the floor today.

We are here to bring the case of the people of Nebraska to the Senate, as our colleagues are doing in the House. We have no other recourse, Mr. President. Again, we are not attempting to amend the Safe Drinking Water Act. We are asking to change the regulation that we have some ability, some flexibility to wait until we have sound science. What an outrageous request. What an outrageous request.

Mr. President, dealing with the EPA is like wandering around in the Land of Oz, this place we wish to pull back the curtain and get to some reality and common sense. It is my hope, as is the hope of my friend and colleague, the senior Senator from Nebraska, that our colleagues will listen to this plea and will assist us in this effort. We are grateful for the opportunity to tell our story—a real story.

Thank you. I yield the floor.

The PRESIDING OFFICER (Ms. Snowe). Who yields time?

Mr. Kerrey addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. Kerrey. Madam President, I ask unanimous consent that letters in support for this amendment from National Governors Association, the Central Nebraska Mayor's Association, the League of Nebraska Municipalities, the city of Columbus, the city of Hastings, the village of Snyder, and the village of Fairmont be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR KERREY: We are writing to convey to you the solid support of four major Nebraska communities for the recent efforts by the Nebraska congressional delegation regarding the lead and copper rule designation in the Safe Drinking Water Act. In an April 24, 1998 letter to USEPA, Nebraska's congressional delegation unanimously urged bringing common sense and good scientific evidence to the copper rule. We support that position and encourage you to continue pressing this issue in our behalf, as well as that of many other Nebraska communities.

As you are well aware, epidemiological evidence generated by the Centers for Disease Control indicates that the water standards for copper are arbitrarily established at levels far below those believed to pose any threat to human health. Incredibly, the level established by USEPA is less than the recommended daily amount of copper for human consumption, established by another federal agency. What is more unnerving, is the fact that cities are being mandated to make significant changes to their water delivery systems, not because of the source of supply, or because of the water systems themselves, but because of the copper water services in private homes. This of course can be solved by running the water for a few seconds each morning before taking any water for drinking purposes, which, we suspect, is a universal practice. Viewed another way, does USEPA have any evidence whatsoever that anyone is consuming water with 'unaccept levels' of copper in it? We believe that USEPA has strayed from its original mandate of ensuring a clean environment. Instead, communities throughout the country are subjecting themselves to the hypertechnical wanderings of a bureaucratic juggernaut, promulgating unreasonably stringent environmental standards that lack good scientific evidence, ignore practical testing procedures, and are totally devoid of any common sense.
July 23, 1998

It is particularly vexing to deal with unreasonable standards which will cost Nebraskans millions of dollars while providing no apparent benefit. Cities are asked by their populations to fund essential services that enhance the quality of life of their citizens. Dollars are tight and public scrutiny is high. The waste of time, effort, and precious dollars on misguided notions like the copper rule for drinking water, is totally unacceptable. Please continue and intensify your efforts to bring good scientific evidence to these and other rules, regulations and standards of USEPA.

Thank you again for your interest in this matter.

Sincerely,

Senator Bob Kerrey,
U.S. Senate
Washington, DC.

Dear Senator Kerrey:

I would like to lend our support to your amendment to place a prohibition on the enforcement of the Copper Rule by the Environmental Protection Agency (EPA).

From all indications, this rule appears unsupported by scientific evidence. If this should be enforced, it will cost our city thousands of dollars.

I ask that you give us every consideration in fighting this ruling. We appreciate your leadership in helping us concerning this matter.

Sincerely,

Jim Van Marter,
League President,
Mayor, Holdrege, Nebraska.

COLUMBUS, NE,

Hon. Robert Kerrey,
U.S. Senate
Washington, DC.

Dear Senator Kerrey:

On behalf of the City of Columbus, I would like to lend our support to your amendment to place a prohibition on the enforcement of the Copper Rule by the Environmental Protection Agency (EPA).

From all indications, this rule appears unsupported by scientific evidence. If this should be enforced, it will cost our city thousands of dollars.

I ask that you give us every consideration in fighting this ruling. We appreciate your leadership in helping us concerning this matter.

Sincerely,

Gary Giebelhaus,
Mayor.
have to comply with the Administrative Order. In review it would cost the village $45,000 for the capital outlay and approximately $15,000 annually for ongoing operations.

Our village board believes that the copper action level is excessively stringent, has an excessive safety margin and is not supported by sound scientific data and studies. The rule requires the village to expend public funds for monitoring and treatment of public water supply system of the Village in order to correct contaminations which occur within the service lines and plumbing systems owned by private persons or entities, and our board does not feel that public funds should be used in this manner.

Thank you for your assistance in this matter and if you need additional information, please contact our office or the League of Nebraska Municipalities.

Sincerely,

David R. Seggerman,
Chairperson, Fairmont Village
Board of Trustees.

Enclosure.

Johnson Erickson O'Brien,
Wahoo, NE, July 8, 1998.

Re: Lead and Copper rule estimated cost for compliance.

Linda Carroll,
Clerk,
Fairmont, NE.

Dear Linda: This letter is in response to recent requests that we have gotten regarding the cost of compliance with the Lead and Copper Rule.

Every case will be different, but I believe that the following will provide a general guideline for determining how much it will cost to deal with the Lead and Copper Rule.

C. In general, most well buildings are not set up to provide adequate space or provide an appropriate environment for use as a chemical feed room. Depending on the building site conditions and the layout, we believe it is likely that the well building will need to be expanded and rough cost for the building modifications would be $10,000 per well (POE).

D. The type of chemical treatment that will be necessary for each well will depend on the detailed chemical analyses of the well water. However, for planning purposes, we would estimate that the cost for chemical feed equipment and electrical modifications needed could be approximately $5,000 per well (POE) and the raw cost of chemical would be approximately $10,000 per well (POE)

E. In addition, to the chemical cost, it would be anticipated that considerable additional cost/time will be involved in the daily monitoring of the chemical feed systems, testing, and administrative time involved in maintaining records, etc. It would appear reasonable to assume that the costs could be around $3,000/year for the first well, and maybe $2,500 for each added well.

F. Also, I would expect that repairs and maintenance costs could be $1,000 well/year to keep pumps and controls operational.

In conclusion, we believe that costs for lead and copper rule compliance would be:

A. Capital Expenditure Costs
1. Building Modification: $10,000 well (POE)
2. Equipment Costs: $5,000 well (POE)
3. Total: $15,000 well (POE)

B. Ongoing Operational Costs
1. Chemical Costs: 10¢/1,000 gal. pumped
2. Operational/Administrative Costs: $3,000/yr. at well (POE) $2,500/yr. each added well (POE)
3. Repairs/Maintenance: $1,000 well (POE)

If you have any questions regarding this letter or if you need anything further from us, please feel free to advise.

Sincerely,

Ron Botoff,
A. Village of Fairmont has 3 wells @|$15,000.00|=45,000.00. Capital set up.
B. Village of Fairmont 1997 water use was 75,000,000 gallons. 1,000 @|$10|=7,50,000.00 Chemical Cost.
C. Operation/Admin — 1 well @|$33,000.00|+2 wells @|$25,000.00=80,000.00 Oper/Admin.
D. Repairs & Maint. 3 wells @|$3,000.00|=3,000.00 Rep. & Maint.
E. In review, the capital expenditure for the Village of Fairmont would be approximately $45,000.00 and annual expenditures for ongoing operational costs would be approximately $38,500.

Mr. Kerrey, Madam President, I am prepared to yield back the remainder of my time. I do not know if Senator Chafee is probably not going to speak because I told him we would withdraw the amendment.

I say to the Senator from New Hampshire, if you don’t want to take the additional 10 minutes, I will ask unanimous consent to withdraw the amendment.

Mr. Kerrey, I have no objection to the Senator from Nebraska withdrawing the amendment.

Mr. Kerrey: Do we need to yield back time in opposition?

The PRESIDING OFFICIAL: Yes, the Senator should yield back his time.

Mr. Greggs. I will yield back our time.

AMENDMENT NO. 325 WITHDRAWN

Mr. Kerrey. I ask unanimous consent that the amendment offered by myself and Senator Hagel be withdrawn.

The PRESIDING OFFICIAL: Who seeks recognition?

Mr. Kerrey addressed the Chair.

The PRESIDING OFFICIAL: The Senator from Massachusetts.

Mr. Kerrey. What is the parliamentary status now?

The PRESIDING OFFICIAL: Amendments are in order.

AMENDMENT NO. 326

(Purpose: To condition the availability of funds for United States diplomatic and consular posts in Vietnam)

Mr. Kerrey. Madam President, therefore, I send an amendment to the desk and ask for its immediate consideration on behalf of myself, Senator John McCain, and Senator Bob Kerrey.

The PRESIDING OFFICIAL. The clerk will report.

The bill clerk reads as follows:

The Senator from Massachusetts [Mr. Kerrey] for himself, Mr. McCain and Mr. Kerrey, proposes an amendment numbered 326.

Mr. Kerrey. I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICIAL: Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

Sec. 406. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel assigned to United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995, unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.

(B) The remains, artifacts, eyewitness accounts, archival material, and other evidence associated with prisoners of war and missing in action recovered from crash sites, military actions, and other locations in Southeast Asia are being thoroughly analyzed by the appropriate laboratories with the assistance of providing relatives with scientifically defensible, legal determinations of death or other accountability that are fully documented and available in unclassified and unredacted form to immediate family members.

Mr. Kerrey. Madam President, are we operating under a time agreement on this?

The PRESIDING OFFICIAL: Twenty minutes evenly divided.

Mr. Kerrey. Twenty minutes equally divided.

Madam President, I yield myself such time as I may use. I ask that the Chair let me know when I have used 7 minutes.

Madam President, for the past 3 years we have had language in the appropriations bill that prohibits funding for the expansion of our diplomatic presence in Vietnam unless the President of the United States certifies that Vietnam is cooperating on the POW/MIA issue.

The fact is that the standard currently in law requires a tough certification by the President. The President has to certify that our cooperation is being conducted in good faith.

The President has to certify that in good faith Vietnam is cooperating in four specific areas: resolving discrepancy cases, live sightings and field activities, remains recovery and repatriation, providing documents, and assisting in the trilateral investigations with Laos.

That is a fair and a sensible standard, Madam President. However, section 405
of the pending bill that has been put into the bill creates a whole new standard. It creates a standard of significant increased capacity for subjectivity and for distortion and, frankly, for an unreasonableenseness, which, if adopted, would allow the President or that individual to come to a decision that our capacity to build the progress and relationship not just on POW/MIA but on human rights and other issues where we have been making progress.

The fact is, we have already had Senator MCCAIN from Arizona and Senator Bob KERREY from Nebraska would strike section 405, replacing it with the language in the current law that requires a certification from the President, and requires the same standard of certification that we have had over the course of the last years.

In our judgment, section 405 will not only undo much of the cooperation that we have had but could conceivably set back years of this unstable relationship. I wish to reiterate the sentiment that we are in the law.

Over the many years that I have been involved in this issue, we have always had a struggle over this central question of what they have, what they don't have, who may have it, who has control of it, and if you get caught in the total subjectivity of a standard that no one in the intelligence community or elsewhere believes they can possibly meet, all you do is create a misfit in the process.

There is no question that we need to keep pressing for documents. We are. We just had a whole new slug of documents turned over that are in the process of being examined. We discovered new items from many of these unilateral turnovers of documents. The point is, they are happening because there is a cooperative effort, because we are engaged in marching down a road together in order to try to assert the truth here.

I think we also have to recognize that just as we deem certain documents pertaining to the military and to our country's national security as being classifiable or sensitive, so do they. We may not view it the same way, but clearly they are going to present, and their agencies — whether the defense agency, the interior agency, or another — represents a security risk. So we have to work through the process of that. If we hold ourselves accountable to a standard where we are subject to some agency or bureaucrat being less than forthcoming, we know we don't even know they has to me we are creating an impossible situation and an impossible standard.

In addition to that, section 405 also adds other new conditions to the process. It requires Vietnam to resolve human rights reports which pertain to the possible or confirmed prisoner of war/missing in action. Action. From the question of how anyone resolves a hearsay report, which is to add an enormous burden to both the American and Vietnamese teams, who are on the ground, who are pursuing nonhearsay reports. They are already tasked on a very clear schedule of trying to determine every single nonhearsay report, absolutely certain evidence they have, which requires them to go out into the field, interview, dig, do a whole host of other very time-consuming efforts. To suggest that every single nonhearsay report has got to be resolved to the exclusion of the reports that they are already pursuing is to, again, raise this to a standard of absurdity.

The fact is, we have made enormous progress on the POW/MIA issue precisely because of Vietnamese cooperation. In the last 5 years, American and Vietnamese teams have concluded 30 joint field activities in Vietnam; 233 sets of remains have been repatriated, and 97 have been identified. The PRESIDING OFFICER. The Senator has used 7 minutes.

Mr. KERRY. I reserve the remainder of my time. The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. It is my understanding I have 10 minutes. The PRESIDING OFFICER. That is correct.

Mr. SMITH of New Hampshire. I yield myself 7 minutes at this point.

I rise to support the committee language that is in the bill before us with respect to Vietnam. I urge my colleagues on both sides of the aisle to listen carefully to the debate between myself and my colleague from Massachusetts.

It seems that we can depend on three things anymore in America — death, taxes, and the fact that Senators KERRY and MCCAIN will somehow oppose any language that I try to support in regard to the POW/MIA issue.

Senator KERRY said that this is not workable, that the term "fully forthcoming" is not workable. Of course it is workable. It is workable because the language says that the President's judgment, the President's own judgment, is based on information available to the U.S. Government. There is nothing unworkable about that language at all. It is very workable. The President has continued to certify the very language that the President says that he wants to revert back to, which was language that I helped to write and put in the bill last year. We are simply upgrading it a little bit. That has not anything to do with the President's judgment from time to time, but he has the right to make that judgment under the law. That is the issue here.

I hope the Senators and their staffs who are monitoring this debate will look at section 405 to see what the Senator from Massachusetts is striking — it is found on page 7 of the committee bill. It is reasonable. I think most Senators will resist the effort to strike it. It is reasonable. Senator GREGG and the committee support this language. The committee language continues the certification process that was begun in 1995 when the President established full diplomatic relations with Vietnam. It has continued, through this year, when the President issued his latest certification in March.

As provided under section 609 of the Defense...
the Judiciary, and Related Agencies Appropriations Act, 1998, Public Law 105-119. I hereby determine, based on all information available to the United States Government, that the Government of the Socialist Republic of Vietnam is fully cooperating in good faith with the United States in the following four areas related to achieving the fullest possible accounting for Americans who are accounted for as a result of the Vietnam War:

1. Resolving discrepancy cases, live sightings, and field activities;
2. Recovering and repatriating American remains;
3. Accelerating efforts to provide documents that will help lead to the fullest possible accounting for POW/MIA;
4. Providing further assistance in implementing trilateral investigations with Laos.

I further determine that the appropriate laboratories associated with POW/MIA accounting are thoroughly analyzing remains, material, and other information, and fulfilling their responsibilities as set forth in subsection (b) of section 609, and information pertaining to this accounting is being made available to immediate family members in compliance with 50 U.S.C. 435 note.

I have been advised by the Department of Justice and believe that section 609 is unconstitutional because it purports to use a condition on appropriations as a means to direct congressional appropriations to the President. I am providing this determination as a matter of comity, while respecting the position that the condition enacted in section 609 is unconstitutional.

In making this determination I have taken into account all information available to the United States Government as reported to me, the full range of ongoing accounting activities in Vietnam, including joint and unilateral Vietnamese efforts, and the concrete results of increased cooperation.

Finally, in making this determination, I wish to reaffirm my continuing personal commitment to the entire POW/MIA community, especially to the immediate families, relatives, friends, and supporters of these brave individuals, and to reconfirm that the central guiding principle of my Vietnam policy is to secure the fullest possible accounting for our prisoners of war and missing in action.

You are authorized and directed to report this determination to the appropriate committees of the Congress and to publish it in the Federal Register.

WILLIAM J. CLINTON.

Mr. SMITH of New Hampshire. For the Senator from Massachusetts and others now to basically prevent the committee from updating the language based on the President's own words, and based on the words of Sandy Berger and others, sends a terrible message to me that I simply do not understand, for the life of me, why we have to fight this battle day in and day out, year in and year out, on the floor of the Senate. There is nothing wrong with this language, I say to my colleagues, with all respect. The President still has the right to certify. And he does in spite of the fact that I disagree, many times, with his reasoning for the certification.

To prevent the committee from updating this language sends a terrible message to the Government of Vietnam: it is OK, do whatever you want. Go ahead, provide us documents, don't provide us documents; provide us access, don't provide us access; it doesn't matter. The families of 2,000 plus American service personnel still unaccounted for, don't worry about it. Our Nation's veterans, we no longer attach the same priorities to the POW/MIA efforts between the United States and Vietnam. We have made it clear that any cooperation may be well-intended, but it is illogical. There is no risk that Vietnam will halt bilateral POW/MIA cooperation and risk achieving their priority mission of MFN. By retaining the Committee's language, Congress can signal it recognizes that more can and should be done by Vietnam on this issue of stated highest national priority to the Clinton Administration and understandable importance to the American people.

Please stand with the POW/MIA families and America's veterans and oppose the Kerry/McCain amendment to remove relevant POW/MIA language.

Respectfully,

ANN MILLS GRIFFITHS,
Executive Director.

NATIONAL ALLIANCE OF FAMILIES,

Hon. ROBERT SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: The membership of the National Alliance of Families strongly opposes any effort to weaken the Committee's language which is already in the Commerce, Justice, and State, the Judiciary Appropriations Bill No. S.2260 for the fiscal year 1999 in respect to the POW/MIA Accounting (Sec. 409).

We support your efforts on behalf of our loved ones who still remain Prisoner of War and/or Missing in Action from the Vietnam War.

Thank you for your generous and strong dedication to those men who have served their Country these many years.

Sincerely,

DOLORES APODACA ALFORD,
National Chairperson.

AN OPEN LETTER TO PRESIDENT CLINTON
FROM FORMER U.S. POWS
AMERICAN DEFENSE INSTITUTE,

The Honorable WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: As former U.S. Prisoners of war during the Vietnam Conflict, we are writing to request you to establish normal diplomatic relations with Vietnam until you can certify that there has been full disclosure and cooperation by Hanoi on the POW/MIA issue. We appreciate Vietnam's support for U.S. crash site recovery and archival research efforts, we know firsthand Vietnam's ability to withhold critical information, and we deeply regret the lack of cooperation. We were all subjected to such propaganda activity during the war, and we would be the least surprised if Hanoi was continuing to use similar tactics in its dealings with the United States.

Of particular concern to us is the several hundred POW/MIA cases involving our fellow service men and women who were lost in enemy-controlled areas during the war, yet they still have not been accounted for by Vietnam. We understand that much of the fragmentary information provided by Vietnamese officials to date indicates they could do more to resolve these cases.
Some of our fellow servicemen became missing during the same incidents which we survived. They have not been accounted for. Some were captured and never heard from again. Some have been accounted for. Some were known to have been held in captivity for several years and their ultimate fate has still not been satisfactorily resolved if they have been accounted for. Still others were known to have died in captivity, yet their remains have not been repatriated to the United States. They have not been accounted for.

Finally, we remain deeply concerned with reports from U.S. and Russian intelligence sources that maintain several hundred unidentified American POWs were held separately from us during the war, in both Laos and Vietnam, and were not released by Hanoi during Operation Homecoming in 1973. Many of these reports have yet to be fully investigated.

America deserves straightforward answers if Vietnam truly wants normalized diplomatic and economic relations. If Vietnam truly has nothing to hide on the POW/MIA issue, why have they not fully disclosed other military records on POWs and MIAs? If Vietnam really wants normalized diplomatic relations, they must not only certify to Hanoi that America expects full cooperation, but they must also do so in an honorable way. We urge you in the strongest possible terms to ensure that we have gone to, to try to account for our missing and captured personnel from the Vietnam War is still a priority for our missing and captured personnel from the Vietnam War is still a priority. We urge you to do this in a manner that will lead to the fullest possible accounting of prisoners of war and the missing in action, providing further assistance in implementing tri-lateral investigations with Laos, and recovering all available eyewitness accounts and so forth.

That is the current law. What the Senate from New Hampshire seeks to do is place a whole lot of new hoops in, some of which can't be met because the intelligence community itself is divided over it. Then they have a whole new way of arguing, saying that, gee, we are not doing the job. There is even a requirement in his section 405 about a specific document that has to be released by the intelligence directorate and ministry of defense of the Soviet Union document of 1971. This has been analyzed extensively by our intelligence community. Let me just say that document has been found to be false in error, inaccurate. And to us now argue about it is a waste of the time, I think, of the standard.

I reserve the remainder of my time.

Mr. SMITH of New Hampshire. Mr. KERRY. Madam President, I yield myself 2 minutes.

Mr. SMITH of New Hampshire. Mr. KERRY. Madam President, I yield myself 2 minutes. Senator McCain is chairing a committee, otherwise, he would be here. Senator Hagel also wanted to speak in favor of my amendment, but he had to go away for a moment, I don't know if he will return in time.

Let me say to colleagues that for the families and for the legitimate concerns of all those groups that want to make sure that this program is being conducted properly, they can look with pride to the fact that we are engaged in the most expensive, most thorough, most effective, most extraordinary and comprehensive effort to provide for the accounting of the missing in the history of human warfare.

No country has ever before, in all of human history, gone to the lengths that we have gone to, to try to account for our missing and captured personnel from the Vietnam War. That is what we are doing today. There is, in the current law, a requirement that the President certify that, based upon all information available to the U.S. Government, the government of Vietnam is fully cooperating in good faith with the United States in resolving discrepancy cases, live sightings, field activities, recovering and repatriating American remains, accelerating efforts to help provide documents that would lead to the fullest possible accounting of prisoners of war and the missing in action, providing further assistance in implementing tri-lateral investigations with Laos, and recovering all available eyewitness accounts and so forth.

The American Legion, 
Washington, D.C. 
September 18, 1997.

Hon. J. UDD GREGG, 
Chairman, Subcommittee on Commerce, Justice, State, and Judiciary, Committee on Appropriations, U.S. Senate, Washington, DC.

Mr. Chairman, the American Legion urges you and your colleagues to retain in conference the Senate-passed language on Section 406 of the Defense Appropriations Bill (H.R. 2397) as it relates to POW/MIA issues with Vietnam (Sec. 406) in the Commerce, Justice, State, and Judiciary Appropriations bill for the Fiscal Year beginning October 1, 1997.

As you know, Section 406 states no funds will be made available for U.S. diplomacy with Vietnam, beyond what existed prior to July 11, 1995, until President Clinton certifies to Congress that Vietnam is "fully cooperating" on the POW/MIA issue based on a "formal assessment of all information available to the U.S. Government." If this new certification language is retained in conference, it will be critical in view of the Senate's findings this past April, during the debate that took place during Pete Peterson's confirmation hearing as Ambassador to Vietnam, that the main intelligence directorate and ministry of defense of the Soviet Union document of 1971.

This document, which Senator John Kerry is a member of, on that last point, this is a document entitled the Comprehensive Report of the U.S.-Russia Joint Commission on POWs/MIA's, of which Senator John Kerry is a member, is as false as others. In that document, which Senator Kerry signed, is this phrase:

There is debate within the U.S. side of the commission as to whether the numbers cited by those representatives of the U.S. Government has concluded that there probably is more information in Vietnamese party and military archives that could shed light on these documents. But to date, such information has not been provided by the Vietnamese government.
That is an absolute statement signed by Senator Kerry, which goes exactly in the opposite direction of what the Senator is trying to do by striking the language. It says simply that the Vietnamese have not provided all of the information the Senate Commission asked for; and it was signed by the Senator himself. So I do not understand how the Senator can sign one document and come to the floor and try to strike all the language that supports the document that he signed. I think the whole matter is just subject to great criticism in that regard alone.

In addition, I have a letter from Sandy Berger, the President's National Security Adviser, that says, "Vietnam's full faith efforts in cooperating on this issue are essential to the development of the relationship."

We have that in our language. In addition, there is another letter from Mr. Berger, dated April 10, 1997. The previous one was August 15, 1997. The same point: We will continue efforts already underway to require additional information on these documents, the 735 document, including access to this document, and on and on and on—all of these specifically to the language.

In addition, the Senator from Arizona, who I understand is supporting the Senator from Massachusetts, said on the floor of the Senate on April 10, 1997, Madam President:

I think the Senator from New Hampshire] because if it had not been for him, this very important letter from the White House would not have come to our leader signed by Sandy Berger, the President for National Security Affairs. It lays out a very important set of priorities for further actions that need to be taken by the United States and by the Vietnamese so that we can finally put this difficult chapter behind us.

That is exactly what we are doing in this language, laying out this series of priorities. It is updating it and laying out the priorities. I urge my colleagues to simply look at 405 and respect the wishes of the families and veterans groups and others, and please keep the language in there for the sake of those people who have suffered so much throughout this process. I yield the floor.

Mr. KERRY. Madam President, I yield myself the balance of my time. My colleagues know there is nobody in the U.S. Senate more committed to finding out what happened than our colleague, Senator McCain, who spent 6 years-plus of his life in a prison in Vietnam. Senator McCain understands very clearly, as others of us do, that a few years ago, there were 196 individuals on the list of last known alive in Vietnam. In the last few years, because of our efforts, we have determined the fate for all but 43 of those 196. The Defense Department is opposed to the language the Senator from New Hampshire has put in the bill because they say it is an "unreasonable effort" to get the answers on the other 43. The administration is opposed to it. I believe that, in good conscience, the Senate should be opposed to that language because it will set back our efforts and set back our progress.

Mr. GREGG. Has all time expired? The PRESIDING OFFICER. Yes. Mr. GREGG. I move to table the Kerry amendment and ask for your yeas and nays.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Mr. GREGG. Madam President, I move to table the Kerry amendment and ask for your yeas and nays.

Mr. GREGG. Madam President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NO. 327, 3278, AND 3279, EN BLOC

Mr. GREGG. Madam President, I send amendments to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. GREGG), for himself and Mr. HOLLINGS, proposes amendments numbered 3277, 3278, and 3279 en bloc.

Mr. GREGG. Madam President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 327

TITLE V—INDEPENDENT AGENCIES

FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: "Provided further, That any two stations of that are primary affiliates of the same broadcast network within any designated market area authorized to deliver a digital signal by November 1, 1998 must be guaranteed access on the same terms and conditions by any multichannel video (including off-air, cable and satellite distribution)."

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEc. 1. None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEc. 2. None of the funds appropriated or otherwise made available by this Act of any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the public financing of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

SEc. 3. For the purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary of State shall, upon request of the citizen, record the place of birth as Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLE —

SECTION 1. SHORT TITLE.

This title may be cited as the "National Whale Conservation Fund Act of 1998." SECTION 2. FINDINGS.

Congress finds that—

(1) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socio-economic, and esthetic value;

(2) whale populations—

(A) form a significant component of marine ecosystems;

(B) are of intense scientific research;

(C) are of intense tourist industry that provides jobs and income to the coastal and subsistence communities;

(3) whale populations are in various stages of recovery, and some whale populations, such as the northern right whale (Eubalaena glacialis) remain perilously close to extinction;

(4) the interactions that occur between ship traffic, commercial fishing, whale watching vessels, and other recreational vessels and whale populations may affect whale populations adversely;

(5) the exploration and development of oil, gas, and hard mineral resources will result in the debris, chemical pollutants, noise, and other anthropogenic sources of change in the habitats of whales which may affect whale populations adversely;

(6) the conservation of whale populations is subject to difficult challenges related to—

(A) the migration of whale populations across international boundaries;

(B) the size of individual whales, as that size precludes certain conservation research procedures that may be used for other animal species, such as captive research and breeding;

(C) the low reproductive rates of whales that require long-term conservation programs to ensure recovery of whale populations; and

(D) the occurrence of whale populations in offshore waters where undertakings such as fishing, monitoring, and conservation measures are difficult and costly;

(7) the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, has undertaken research and regulatory responsibility for the conservation of whales under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.);

(8) the heads of other Federal agencies and the Marine Mammal Commission established
Mr. GREGG. Madam President, I ask unanimous consent that the amendments be agreed to.

The PRESIDING OFFICER. The amendments (Nos. 3277, 3278, and 3279), en bloc, were agreed to.

Mr. GREGG. Madam President, I move to reconsider the vote by which the amendments were agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Madam President, to bring our colleagues up to speed, I ask unanimous consent that the following new section:

``(g) In carrying out any action on the part of the Foundation under subsection (f), the Foundation shall consult with the Directors of the Board as to whether approval of the action is consistent with the purposes of the Foundation and shall not undertake such action unless it determines that such action is consistent with the purposes of the Foundation.
``

be agreed to.

The PRESIDING OFFICER. The amendments be agreed to.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3280

(Purpose: To express the sense of the Senate regarding the impact of Japan's recession on the economies of East and Southeast Asia and the United States)

Mr. LIEBERMAN. Madam President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. THOMAS, Mr. GIBRON, Mr. LUGAR, Mr. BINGMAN, Mr. MACK, Mr. DURBIN, Mr. INHOFE, Mr. KOHL, Mr. REID, Mr. BREAUX and Mr. BROWNBACK, proposes an amendment numbered 3280.

Mr. LIEBERMAN. I ask unanimous consent that the amendment be dispensed with.

The PRESIDING OFFICER (Mr. SMITH of New Hampshire). Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6. - SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a new challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1998 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 30 percent depreciation for the yen since January, has placed competitive price pressures on United States industries and workers and is putting downward pressure on Chinese exports.

(7) Japan's economic recession is having an adverse effect on the recovery in the United States.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 30 percent depreciation for the yen since January, has placed competitive price pressures on United States industries and workers and is putting downward pressure on Chinese exports.

(9) Japan's current account surplus has increased by 60 percent over the past 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(10) Period of deflation in Japan would lead to lower demand for United States products.


(12) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the growth of the United States domestic product and job creation in the United States.

(14) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 12,500,000,000,000 yen in new spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(15) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(16) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(17) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States since 1995.

(18) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(19) An economic recession in Japan could lead to a reduction in the United States military presence in the Pacific, with countries of East and Southeast Asia rethinking the value of the yen in international currency markets.

(20) The United States-Japanese alliance is critical to stability in East and Southeast Asia.

(21) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1998 Joint Security Declaration.

(22) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(23) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 30 percent depreciation for the yen since January, has placed competitive price pressures on United States industries and workers and is putting downward pressure on Chinese exports.

(24) Japan's current account surplus has increased by 60 percent over the past 12 months from 71,579,000,000 yen in 1996 to 114,357,000,000 yen in 1997.

(25) Period of deflation in Japan would lead to lower demand for United States products.

(26) The unnecessary and burdensome regulation of the Japanese market constrains Japanese economic growth and raises costs to business and consumers.

(27) Deregulating Japan's economy and spurring economic growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(28) Japan's economic recession is slowing the growth of the United States domestic product and job creation in the United States.

(29) Japan has made significant efforts to restore economic growth with a 16,000,000,000,000 yen stimulus package that includes 4,500,000,000,000 yen in tax cuts and 12,500,000,000,000 yen in new spending, a Total Plan to restore stability to the private banking sector, and joint intervention with the United States to strengthen the value of the yen in international currency markets.

(30) The people of Japan expressed deep concern about economic conditions and government leadership in the Upper House elections held on July 12, 1998.

(31) The Prime Minister of Japan tendered his resignation on July 13, 1998, to take responsibility for the Liberal Democratic Party's poor election results and to acknowledge the desire of the people of Japan for new leadership to restore economic stability.

(32) Japan's economic recession is having an adverse effect on the economy of the United States and is now seriously threatening the 9 years of unprecedented economic expansion in the United States since 1995.

(33) Japan's economic recession is having an adverse effect on the recovery of the East and Southeast Asian economies.

(34) An economic recession in Japan could lead to a reduction in the United States military presence in the Pacific, with countries of East and Southeast Asia rethinking the value of the yen in international currency markets.
close United States-Japanese cooperation in resolving Japan's economic crisis.

(b) Sense of the Senate.—It is the sense of the Senate that—

(1) the President, the Secretary of the Treasury, and the United States Trade Representative should emphasize the importance of financial deregulation, including banking reform, increasing market access for foreign entrepreneurs, and restructuring bad bank debt as fundamental to Japan's economic recovery; and

(2) the President, the Secretary of the Treasury, the United States Trade Representative, the Secretary of Commerce, and the Secretary of State should communicate to the Japanese Government that the first priority of Japan's Prime Minister and his Cabinet should be to restore economic growth in Japan and promote stability in international financial markets.

Mr. Lieberman. Mr. President, I rise today to offer this bipartisan amendment, a sense-of-the-Senate resolution expressing our concern about the impact of Japan's recession on the economies of East Asia, the United States, and particularly our economic relationship with Japan. The situation is bad in Japan, the people of Japan know it, and without some sense is necessary, that the Congress of the United States recognize and express to our President and to the people of Japan that the Senate of the United States is following Japan's economic performance with increasing anxiety and is very concerned about the pressure that Japan's current economic crisis is putting on our overall bilateral relationship.

So today, along with the distinguished group of Members of both parties, whose names I mentioned earlier, I am pleased to offer this resolution to express to our President and to the Government of Japan that the Senate of the United States is following Japan's economic performance with increasing anxiety and is very concerned about the pressure that Japan's current economic crisis is putting on our overall bilateral relationship.

While we applaud efforts in Japan in assessing the damage and beginning the reform, we need to maintain a strong position supporting the implementation of those reforms, even though we know they will be painful. The resolution that we submit today cites a number of fundamental reforms crucial to recovery in Japan and Asia, including deregulation of the Japanese economy, liberating the creative, innovative forces that are there, improvement of market access for foreign entities wishing to do business in Japan, enforcement of fair trade, and particularly bold and substantial banking reform.

These are all actions which will increase the competitiveness of the Japanese market and of Japanese companies, providing greater opportunities for foreign investment in Japan and for the success of U.S.-Japanese and foreign entrepreneurs.

Mr. President, a more open and healthy Japanese economy is fundamental to the recovery of the entire Asian region. Seeing no one else on the floor, Mr. President, I ask unanimous consent for 1 more minute to complete this statement.
The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair. Long into the foreseeable future, Japan will remain one of our most important economic trading partners and strategic allies in the world, sharing our common goals of regional and worldwide prosperity and peace. The importance of our alliance, though, compels us to speak out and place our support behind the most innovative reform efforts in Japan and push for a swift resolution of the economic crisis there.

Earlier this week, the House passed a similar resolution with the overwhelming support of 391 Members—only 2 opposed. Given the urgency of the issue and the value of a unified congressional position, I urge my colleagues to support this bipartisan resolution.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. We yield back all time.

Does the Senator wish a vote?

Mr. LIEBERMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The previous order, there will now be 2 minutes of debate equally divided.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote.

The amendment (No. 3272) was agreed to.
The motion to lay on the table the amendment (No. 3276) was rejected.

Mr. COVERDELL. On rollcall vote 231, I voted no. It was my intention to vote yeas, therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

The yeas and nays have been ordered.

No funds may be used under this Act to process or register any application filed or submitted with the Patent and Trademark Office under the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,” approved July 5, 1946, commonly referred to as the Trademark Act of 1946, as amended, after the date of enactment of this Act for a mark identical to the official tribal insignia of any federally recognized Indian tribe for a period of one year from the date of enactment of this Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

Mr. GREGG. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The amendment (No. 3237) was agreed to.

The amendment (No. 3273), as modified, is as follows:

At the appropriate place, insert:
Mr. GREGG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

As to the appropriate place add the following:

SEC. .

(a) Add the following at the end of U.S.C. 1153(b)(3)(C):

(iv) Definition:

(A) As used in this subsection the term “capital” means cash, equipment, inventory, other tangible property, and cash equivalents, but shall not include indebtedness. Nothing in this subsection shall be construed to exclude documents, such as binding contracts, as evidence that a petitioner is in the process of investing capital as long as the capital is not in the form of indebtedness with a payback period that exceeds 21 months;

(b) As assets acquired, directly or indirectly, by unlawful means (such as criminal activities) shall not be considered capital for the purposes of this subsection. A petitioners sworn declaration concerning lawful sources of capital shall constitute presumptive proof of lawful sources for the purposes of this subsection, although nothing herein shall preclude further inquiry prior to approval of conditional lawful permanent resident status.

The amendment is printed in today’s RECORD under “Amendments Submitted.”

Mr. SMITH of Oregon. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon Mr. SMITH, for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. Gorton, Mr. BUMPERS, Mr. HATCH, Mr. McCONNELL, Mr. MACK, Mr. KEMPThORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND, proposes an amendment numbered 3258.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG. Mr. President, for the information of our colleagues, we now turn to the Smith amendment. Under the terms of the agreement, there will be 40 minutes of debate on this amendment. I expect we will begin voting on final passage and on the Smith amendment no earlier than 3 o’clock and no later than 3:15.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Is the Chair prepared to receive an amendment?

The PRESIDING OFFICER. We are prepared. Under the previous order, there will be 10 minutes equally divided and then 20 minutes on the second-degree amendment.

Mr. GREGG. Will the Senator from Oregon yield?

Mr. SMITH of Oregon. Yes.

Mr. GREGG. As I understand, there has been an agreement reached between the parties here that there will be 40 minutes of debate equally divided between the Senator from Oregon, who will control half of that time, and the Senator from Massachusetts, who will control half of that time. Is that correct?

Mr. SMITH of Oregon. That is correct.

Mr. GREGG. I ask unanimous consent that the procedure under which we function.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of non-immigrant agricultural workers, and for other purposes.)

Mr. SMITH of Oregon. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon Mr. SMITH, for himself, Mr. WYDEN, Mr. CRAIG, Mr. GRAHAM, Mr. Gorton, Mr. BUMPERS, Mr. HATCH, Mr. McCONNELL, Mr. MACK, Mr. KEMPThORNE, Mr. SANTORUM, Mr. FAIRCLOTH, and Mr. THURMOND, proposes an amendment numbered 3258.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed in today’s RECORD under “Amendments Submitted.”

Mr. SMITH of Oregon. Mr. President, I rise today along with Senators WYDEN, CRAIG, GRAHAM of Florida, BUMPERS, Gorton, HATCH, McCONNELL, MACK, KEMPThORNE, SANTORUM, FAIRCLOTH, and THURMOND to offer the Agricultural Jobs, Opportunity, Benefits and Security Act of 1999, also known as AgJOBS. Our bill will create a streamlined guest worker program to allow a reliable supply of legal, temporary, agricultural workers. Why is this necessary? Currently, in this country, we have a process for temporary workers that is terribly broken. The H-2A program, if I could show you graphically, has a 6-page application for each worker, with 325 pages of instructions as to how to fill it out. As a consequence, all of the foreign workers who are in this country are here either illegally or having been grandfathered in through earlier amnesties. It is estimated by the GAO that 40 percent of those who are here are illegal. As a consequence of that, the GAO has identified that there is not a farm labor supply problem because we have all these illegal aliens here. I am simply saying, and I am doing it on a bipartisan basis, we owe this country something better than a system that relies upon illegal immigration. We owe these foreign workers the dignity of being here under law, with some basic human standards and some benefits to which they ought to be entitled when they are here. It is for that reason that Senator WYDEN and I have approached the farm community and asked them to give as much as they can, to help economically to fix this program. I believe they have responded. It is for that reason there are so many Republicans and Democrats on this bill. I know there are still some misgivings. I know my friend from Massachusetts has misgivings; the Senators from California do. But what we want to get this conference committee with some place markers so we can provide a forum where this can be further refined. Let me tell you the kinds of features Senator WYDEN and I share in a common desire to ultimately change American law in a very fundamental way in order to avoid a very large crisis for consumers, for farm employers, and for farm workers.

We are proposing in this bill the establishment of a national registry which will replace the current system that so few are able to use, even if they could afford to use it. This is going to be a registry for domestic workers only, in a way that will allow farmers to know where they can go for workers and where they can have legal status. In exchange for this, there will be added to the current system—we are going to preserve all the basic rights that are guaranteed; all the labor guarantees that are going to remain there. We are going to have a prevailing wage rate, something that reflects a level that the agricultural community can afford, and also one that gives probably in excess of 1.5 million farm workers a pay raise. We are not talking about the minimum wage, we are talking about a prevailing wage plus 5 percent.

In addition to that, we are talking about a transportation allowance and a housing allowance. These are things that we owe those who come here to this country to do agricultural work. These are things which my friends on the left have been asking for, for a long, long time. I am here to say the time has come, now is the time, to say yes to that. We are doing it on a basis, though, that recognizes the economics of the farmer also, because the truth is, most of the agricultural employers in this country are not big corporate farms, they are mom and pop who are trying to make a bottom line. They do not even control, in most cases, the price that they get for their commodities.

I believe—Senator WYDEN and I and Senator GRAHAM of Florida, who has been so helpful on this, and others on the Democrat side—that we have found the middle ground here that wins for consumers but, more important, wins for agricultural workers and also for farmers.

With that, I yield time to my colleague from Oregon, whose help I appreciate very much, Senator WYDEN.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I hope this amendment is just the beginning of the debate on agricultural labor. But I believe that the legislation before the Senate is based on three principles that can last well into the 21st century and be in the interests of both farm workers and farm employers.
The first principle on which this amendment is based is that the U.S. worker must come first—that U.S. workers, for example, when they participate in the registry, will have the right of first refusal to any available farm jobs. And the Farm Worker Justice Fund to improve working conditions for the farm workers in our country.

Third, it will replace the current dysfunctional system for administering this program with one that is modern and is based on the use of computer technology.

At every step along the way, this package tries to address specific concerns raised by worker advocates, as well as those advocating for the growers. My colleague, Senator Smith, talked about the registry. If a U.S. worker participates in the registry, that worker is entitled to benefits that U.S. workers are not entitled to today, such as housing and transportation. And the registry also seeks to address the concerns of growers, specifically, by saying that when a grower utilizes this registry, the grower can then be certain that there is a presumption that the person is legal.

The last point I would like to raise, because I know many of my colleagues want to speak and have important questions, deals with exactly the number of people involved in farm labor in our country. This is the centerpiece of the question. We have heard a lot of talk on the floor of the Senate about a guest worker program. There are very few legal guest workers. There are 1.6 million farm workers in our country and perhaps 25,000 guest workers who are here under the current program. The 1.6 million farm workers, who work on those farms, have virtually no legal entitlements other than to the minimum wage. So what this legislation does is it potentially extends basic worker protections to a far greater share of that 1.6 million pool of workers, save 25,000. It will create a circumstance in which hundreds of thousands more farm workers get access to housing and transportation and other benefits that they do not have today.

I know this is a new concept, but it is an important one because what this amendment seeks to do is to change the nature of the system so we can make the bulk of our workers are legal in America. The General Accounting Office made the judgment that there was no shortage of workers in America, but they concluded that way because they counted illegal workers. Right now, any grower can tell you this is why I am pleased I can join with my colleagues in proposing that I think is phenomenally constructive reform in the H-2A Agricultural Guest Worker Program. Failure to fix or replace this program means the Federal Government is completely ignoring the needs of a significantly changed agricultural labor market.

Many employers who meet legal standards of diligence when they hire a worker really have no idea if the next raid by the Immigration and Naturalization Service will scare off their workforce and their crops will rot in the field. That is not an exaggeration. Just a few weeks ago that happened in the State of Georgia, just to our south: One county, a raid; the rest of the county was cleared out of a workforce that was picking crops and raising cattle. It is an issue in Georgia, in Florida, in Idaho, in Oregon, in New York, in Kentucky—all over the country where this particular type of work force is necessary.

California growers and local officials have made a real effort to address this shortfall with welfare-to-work efforts—which does not appear to be helping.

The GAO study that has helped prompt the kind of urgency that the Senators from Oregon spoke to estimated that as many as 600,000 farm workers, or 37 percent of the 1.6 million, are not legally authorized to work in the United States—600,000. That is a problem, a very big problem, a problem created by laws and by a Department of Labor, and I am pleased that they have worked with us to resolve this issue.

As workers disappear from U.S. fields—and crops stay there, instead of moving to stores and consumers—U.S. food will be replaced by foreign imported food.

This means a mainstay in our economy—the U.S. agriculture industry—is threatened with a major breakdown. And our families are threatened with an increased risk to their health and safety because of food-borne diseases.

Also, the current H-2A program has been a red-tape nightmare. Even when growers meet all deadlines, GAO found that DOA misses its statutory deadline 40 percent of the time.

The current H-2A program has been completely ineffective as a means of obtaining temporary and seasonal workers—supplying only about 24,000 out of 1.6 million farm workers.

In the 1996 Immigration Law, and in appropriations over recent years, Congress has made it a priority to secure our borders and crack down on illegal immigration. This is needed is a bipartisan effort to reform the current H-2A system, having the following components:

Creation of a new, voluntary national registry of migrant farmworkers to...
which growers can turn for workers they know are legal.

If enough domestic workers cannot be supplied through the registry, growers could apply for legal guest workers through an expedited, reformed H-2A program.

The new program would resemble current H-2A, but it would have faster turnaround, less red tape, and greater certainty for employers.

It would also have continued protection for workers, and greater flexibility for employers accustomed to conditions of employment, such as housing, transportation, and market-based wages.

I invite my colleagues to support me in this important endeavor.

Mr. President, again, I appreciate the bipartisan work that has gone into this initiative and that we were able to bring it promptly to the floor. I hope there is a strong majority, a bipartisan vote in the Senate to move it to conference.

I yield the floor.

Mr. KENNEDY. Mr. President, I see my friend and colleague from California. How much time does she need?

Mrs. BOXER. Sixty seconds.

Mr. KENNEDY. I yield a minute to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President. I rise today to say that what we have in front of us is a major rewrite of the Guest Worker Program. This particular proposal has had no hearings.

I have talked with my colleagues, of whom I am very fond, on both sides of the issue, and I am getting different responses. One says it will vastly increase illegal immigration; the other says it will control it.

One says it will depress agricultural workers’ wages; and the other one says, no, it is going to get better.

One says it will take away housing from legal workers; the other says it will get better.

What is the impact on American workers? We don’t know. I say to my good friends on both sides, something like this ought not be rushed away. I have 60 seconds to talk. My colleague from California, who has been a leader on this issue, is going to have 4 minutes or 5 minutes. This is wrong. We really ought to do this in the right way: send it to the committee and have a full hearing.

I yield back my time to my colleague. I thank him.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I request up to 10 minutes of time from the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon has 3½ minutes remaining.

Mr. SMITH of Oregon. I have been informed by the managers of the bill that we have now available on both sides until 3 o’clock. Senator Kennedy and I have agreed we will split it evenly. I believe there is more time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KENNEDY. Just reserving the right to the time.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH of Oregon. Mr. President, before Senator Graham speaks, I ask unanimous consent that the amendment that we intended to send actually be sent for us, and that the amendment we will be voting on will be the one with the changes which we all understand are there.

The PRESIDING OFFICER. The Senate will proceed in its normal way. There are an extra 5 minutes to each side. The Senator from Oregon has 8 minutes 39 seconds remaining. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, the current system is broken. Let me just give a few examples of that collapse. According to the General Accounting Office report issued the end of 1997, there were 60,000 legally employed foreign workers in the United States—600,000. In my State of Florida, a major agricultural production State, in 1997 the number of H-2A visas, the visas that would create a legal status for an alien agricultural worker, were four; not 400 or 4,000, but four.

Third, the American worker is disadvantaged under the current system. As an example, if an American agricultural worker is employed by an American farmer, the American farmer must pay Social Security and other employment taxes on the wages earned by that American farm worker. But if the American farmer employs a non-U.S. farm worker, those taxes do not have to be collected and, thus, there is an incentive to employ the foreign worker before employing the American worker.

Farmers are in a sea of complexity. There is a process under the current law in which a farmer can make an application for an H-2A worker. Supposedly, that application is to be processed within 20 days. In 1996, more than one-third of the applications failed to meet that 20-day period, and so the farmer was not able to get a signal as to whether his request for legal foreign workers would be met.

This fails the foreign worker. It fails the foreign workers by forcing most of them into an illegal status where they lack the protection that a legal program would provide.

If I could give one example: In August of 1992, after Hurricane Andrew hit south Dade County, FL—a major agricultural production area—there was concern about a public health epidemic and therefore there was the desire to have people immunized against a variety of potential diseases. The public health officials found it extremely difficult to get the agricultural workers to come forward to be immunized for their own protection and the protection of the general public because they knew they were illegal and were afraid that by presenting themselves for an immunization shot, they would be making themselves subject to deportation. That is the kind of fear and terror in which we have over 600,000 human beings in the United States, who are harvesting our food, live on a daily basis.

Finally, the current system fails the American consumer. We have the opportunity in this country and have had historically access to the best food produced under the most sanitary conditions and the most affordable and in the world. But if we have many more instances, as the Senator from Idaho talked about occurred recently in Georgia, where a major crop rots on the field because of the inability to secure legal workforce, we will be denying the American consumer what we have traditionally assumed is an American birthright.

Mr. President, the current system is broken. The Senator from Oregon and others, who have joined together in this bipartisan effort, have attempted to understand what those problems are that contributed to the brokenness of the current system and to present a series of prescriptions to correct that.

We look forward to working with our colleagues in a process of refining the proposal that we have made, but we believe this represents a significant step forward in terms of protecting the rights of American workers, of creating a legal workforce for the American farmer, and particularly the interest of the American consumer.

Thank you.

AMENDMENT NO. 3258, AS MODIFIED

Mr. SMITH of Oregon. Mr. President, I could not hear the rule on my unanimous consent request. And I send a modified amendment to the desk.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Just reserving the right to—Mr. President, I am trying to understand what the modification that we talked about before.

Mr. SMITH of Oregon. It is, I say to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment (No. 3258), as modified, follows:

(a) SHORT TITLE. —This title may be cited as the "Agricultural Job Opportunity Benefits and Security Act of 1998." The text of the amendment (No. 3258), as modified, follows:

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:
in the United States as provided for in section 101(a)(15)(H)(ii)(A) or (B) of the Immigration and Nationality Act, as in effect on the effective date of this title.

**SEC. 03. AGRICULTURAL WORKER REGISTRIES.**

(a) ESTABLISHMENT OF REGISTRIES.—

(1) IN GENERAL.—The Secretary of Labor shall establish and maintain a system of registries containing a current database of eligible United States workers who seek to perform temporary or seasonal agricultural work and the employment status of such workers. To ensure that eligible United States workers are informed about available agricultural job opportunities:

(A) to maintain a current worker registry, the employer shall be required to maintain the registry unless the Attorney General has determined that such regulation is inappropriate; and

(B) to maintain a current worker registry, the employer shall be required to maintain the registry unless the Attorney General has determined that such regulation is inappropriate.

(b) REGISTRATION.—The term "registration" means an individual whose name appears in a registry.

(c) CONFIDENTIALITY OF REGISTRIES.—The Secretary shall maintain the confidentiality of the registries established pursuant to this section, and the information in such registries shall not be used for any purposes other than those authorized in this title.

(d) ADVERTISING OF REGISTRIES.—The Secretary shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

**SEC. 04. EMPLOYER APPLICATIONS AND ASSURANCES.**

(a) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a registered worker to such job opportunity. Each application for such referral shall include:

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the qualifications that must be possessed by a worker to be employed in the temporary or seasonal agricultural job opportunity, the employer shall provide the application with a list of the temporary or seasonal agricultural job opportunities, the type or types of temporary or seasonal agricultural work the applicant is willing to perform; and

(F) such other information as the applicant wishes to provide.

(b) AMENDMENT OF APPLICATIONS.—

(1) IN GENERAL.—The Secretary may amend an application in good faith if the Secretary determines that the application is necessary to enable the Secretary to refer a registered worker to a job opportunity.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) AGGREGATE APPLICATIONS.—An agricultural association may file an application under section 03(a) for registered workers on behalf of its employer members.

(B) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registered employer, the employer may amend an application under this subsection if the employer determines that the application is necessary to enable the Secretary to refer a registered worker to a job opportunity.

(c) C ONFIDENTIALITY OF REGISTRIES.—

(1) I N GENERAL.—The Secretary of Labor shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

(2) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a registered worker to such job opportunity. Each application for such referral shall include:

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the qualifications that must be possessed by a worker to be employed in the temporary or seasonal agricultural job opportunity, the employer shall provide the application with a list of the temporary or seasonal agricultural job opportunities, the type or types of temporary or seasonal agricultural work the applicant is willing to perform; and

(F) such other information as the applicant wishes to provide.

(b) AMENDMENT OF APPLICATIONS.—

(1) IN GENERAL.—The Secretary may amend an application in good faith if the Secretary determines that the application is necessary to enable the Secretary to refer a registered worker to a job opportunity.

(2) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

(A) AGGREGATE APPLICATIONS.—An agricultural association may file an application under section 03(a) for registered workers on behalf of its employer members.

(B) AMENDMENT OF APPLICATIONS.—Prior to receiving a referral of workers from a registered employer, the employer may amend an application under this subsection if the employer determines that the application is necessary to enable the Secretary to refer a registered worker to a job opportunity.

(c) C ONFIDENTIALITY OF REGISTRIES.—

(1) I N GENERAL.—The Secretary of Labor shall widely disseminate, through advertising and other means, the existence of the registries for the purpose of encouraging eligible United States workers seeking temporary or seasonal agricultural job opportunities to register.

(2) APPLICATIONS TO THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 days prior to the date on which an agricultural employer desires to employ a registered worker in a temporary or seasonal agricultural job opportunity, the employer shall apply to the Secretary for the referral of a registered worker to such job opportunity. Each application for such referral shall include:

(A) the name and address of the individual;

(B) the period or periods of time (including beginning and ending dates) during which the individual will be available for temporary or seasonal agricultural work;

(C) the qualifications that must be possessed by a worker to be employed in the temporary or seasonal agricultural job opportunity, the employer shall provide the application with a list of the temporary or seasonal agricultural job opportunities, the type or types of temporary or seasonal agricultural work the applicant is willing to perform; and

(F) such other information as the applicant wishes to provide.

(b) AMENDMENT OF APPLICATIONS.—

(1) IN GENERAL.—The Secretary may amend an application in good faith if the Secretary determines that the application is necessary to enable the Secretary to refer a registered worker to a job opportunity.
The employer shall assure that the job opportunity for which the employer requests a registered worker is not temporary or seasonal.

(b) **SEASONAL BASIS.**—For purposes of this title, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

(c) **TEMPORARY BASIS.**—For purposes of this title, labor is performed on a temporary basis where the employment is intended not to exceed 10 months.

(2) **ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.**—The employer shall assure that the job opportunity for which the employer requests a registered worker is not temporary or seasonal.

(3) **ASSURANCE OF COMPLIANCE WITH LABOR LAWS.**—

(A) **IN GENERAL.**—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer is in compliance with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) **LIMITATIONS.**—

The disclosure required under section 218A(a) of the Migrant and Seasonal Agricultural Worker Protection Act of 1985 (8 U.S.C. 1182(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(A) **SEARCH PROCESS AND REFERRAL TO THE EMPLOYER.**—The employer shall assure that the employer will, from the day an application for workers is submitted under subsection (a), and continuing throughout the period of employment of any job opportunity for which the employer has applied for a worker from the registry, post in a conspicuous place a poster to be provided by the Secretary advertising the availability of the registry.

(7) **ASSURANCE OF CONTACTING FORMER WORKERS.**—The employer shall assure that the employer has made reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any eligible worker the employer has requested that employees be provided with the name, address, and social security account number of each registered worker who has been employed by the employer for a lawful job opportunity and will commit to work for the employer the name, address, and social security account number of all employees designated by the employer pursuant to this title, only for lawful job-related reasons, including lack of work.

(5) **ASSURANCE OF COMPLIANCE WITH LABOR LAWS.**—

(A) **IN GENERAL.**—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer is in compliance with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) **LIMITATIONS.**—

The disclosure required under section 218A(a) of the Migrant and Seasonal Agricultural Worker Protection Act of 1985 (8 U.S.C. 1182(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(2) **ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.**—The employer shall assure that the job opportunity for which the employer requests a registered worker is not temporary or seasonal.

(3) **ASSURANCE OF COMPLIANCE WITH LABOR LAWS.**—

(A) **IN GENERAL.**—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer is in compliance with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) **LIMITATIONS.**—The disclosure required under section 218A(a) of the Migrant and Seasonal Agricultural Worker Protection Act of 1985 (8 U.S.C. 1182(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.

(2) **ASSURANCE THAT THE JOB OPPORTUNITY IS TEMPORARY OR SEASONAL.**—The employer shall assure that the job opportunity for which the employer requests a registered worker is not temporary or seasonal.

(3) **ASSURANCE OF COMPLIANCE WITH LABOR LAWS.**—

(A) **IN GENERAL.**—An employer who requests registered workers shall assure that, except as otherwise provided in this title, the employer is in compliance with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer.

(B) **LIMITATIONS.**—

The disclosure required under section 218A(a) of the Migrant and Seasonal Agricultural Worker Protection Act of 1985 (8 U.S.C. 1182(a)) may be made at any time prior to the time the alien is issued a visa permitting entry into the United States.
which the employer has not received referral of registered workers. Such an application shall include a copy of the employer’s application under section 04(a), together with evidence that the Secretary of State may consult with the Secretary of Labor in carrying out this paragraph.

(2) EXPEDITED CONSIDERATION BY SECRETARY OF STATE.—The Secretary of State shall, as expeditiously as possible, but not later than 5 days after the employer files an application under paragraph (1), issue visas to, and the Attorney General shall admit, a sufficient number of eligible aliens designated by the employer to fill the job opportunities for which the employer has applied under that paragraph.

(c) REDETERMINATION OF NEED.—

(1) REQUESTS FOR REDETERMINATION.—

(A) IN GENERAL.—An employer may file a request for a redetermination by the Secretary of the needs of the employer if—

(i) a worker referred from the registry is not at the place of employment on the date of need shown on the application, or the date the work for which the worker is needed has begun, whichever is later;

(ii) the worker is not ready, willing, able, or qualified to perform the work required; or

(iii) the worker abandons the employment or is terminated for a lawful job-related reason.

(B) ADDITIONAL AUTHORIZATION OF ADMISSIONS.—The Secretary shall expeditiously, but in no case later than 72 hours after a redetermination is requested under subparagraph (A), submit a report to the Secretary of State and the Attorney General providing notice of a need for workers under this subsection.

(2) JOB-RELATED REQUIREMENTS.—An employer shall not be required to initially employ a worker who fails to meet lawful job-related criteria, nor to continue the employment of a worker who fails to meet lawful, job-related standards of conduct and performance, including failure to meet minimum production standards after a 3-day break-in period.

(d) EMERGENCY APPLICATIONS.—Notwithstanding subsections (b) and (c), the Secretary may transmit a request to the Secretary of State and the Attorney General providing notice of a need for workers under this subparagraph if—

(1) who has not employed aliens under this title in the occupation in question in the prior year’s agricultural season;

(2) who faces an acute or unforeseen need for workers (as determined by the Secretary); and

(3) with respect to whom the Secretary cannot find an acceptable, willing, and qualified worker from the registry who will commit to be at the employer’s place of employment and ready for work within 72 hours or on the date the work for which the worker is needed has begun, whichever is later.

(e) REGULATIONS.—The Secretary of State shall prescribe regulations to provide for the designation of aliens under this section.

SEC. 07. EMPLOYMENT REQUIREMENTS.

(a) REQUIRED WAGES.—

(1) IN GENERAL.—An employer applying under section 04(a) for workers shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers from the registry, not less (and is not required to pay more) than the greater of the prevailing wage established in the area of intended employment or the adverse effect wage rate.

(2) PAYMENT OF PREVAILING WAGE DETERMINED BY STATE EMPLOYMENT SECURITY AGENCY SUFFICIENT.—In complying with paragraph (1), an employer may request and obtain a prevailing wage determination from the State employment security agency. If the employer requests such a determination, and pays the wage required by paragraph (1), payment of the prevailing wage determination shall be considered sufficient to meet the requirement of paragraph (1).

(3) RELIANCE ON WAGE SURVEY.—In lieu of the proceeding prescribed by paragraph (1), an employer may rely on other information, such as an employer-generated prevailing wage survey and determination that meets criteria specified by the Secretary. The employer shall keep a record of any prevailing wage survey or determination used under this subparagraph.

(b) ALTERNATIVE METHODS OF PAYMENT PERMITTED.—

(1) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate, or other incentive payment method, including a group rate. The requirement of subparagraph (a)(1) shall not require an employer to pay at least the prevailing rate in the area of intended employment and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed, except that, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer has met the prevailing wage determination.

(2) COMPLIANCE WHEN PAYING AN INCENTIVE RATE.—In the case of an employer that pays a piece rate or task rate or uses any other method of pay other than the prevailing wage rate, the employer shall be considered to be in compliance with any applicable hourly wage requirement if the average of the hourly earnings of the workers, taken as a group, the activity for which a piece rate, task rate, or other incentive payment, including a group rate, is paid, for the pay period, is at least equal to the required hourly wage.

(c) TASK RATE.—For purposes of this paragraph, the term ‘task rate’ means an incentive payment method based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

(d) GROUP RATE.—For purposes of this paragraph, the term ‘group rate’ means an incentive payment method in which the payment is shared among a group of workers working together, and an assumption of 2 persons per bedroom.

(e) ASSUMPTION.—An employer may be considered to be in compliance with any applicable hourly wage requirement if the employer has employed all registered workers referred under section 05(a), together with workers employed under section 08(b), and to all other workers in the same occupation at the place of employment, whose permanent place of residence is beyond normal work travel and in the State in which the employment occurs, as established by the Secretary of Labor in the employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(f) EVIDENCE OF CERTIFICATION.—If the governor of the State makes the certification of insufficient housing described in subparagraph (a) applicable to workers in an area of intended employment, employers of workers in that area of employment may not offer the housing described in subparagraph (a) after the date that is 5 years after such certification of insufficient housing for such area, unless the certification has expired or been canceled pursuant to paragraph (e).

(g) AMOUNT OF ALLOWANCE.—The amount of a housing allowance under this paragraph shall be equal to the statewide fair market rental for existing housing for nonmetropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 08(c) of the United States Housing Act of 1937 (42 U.S.C. 1437(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

(h) REIMBURSEMENT OF TRANSPORTATION.—

(1) TO PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 05(a), or an alien employed pursuant to this title, who completes 50 percent of the period of employment of the job opportunity for which the worker was hired, may apply to the employer for reimbursement of the worker’s transportation expenses and subsistence from the worker’s permanent place of residence (or place of last employment, if the worker traveled from such place) to the place of employment at which the worker was referred under section 05(a).

(i) CHARGES FOR HOUSING.—

(A) UTILITIES AND MAINTENANCE.—An employer that provides housing pursuant to paragraph (1) may require, as an additional charge for providing such housing, a deposit not to exceed $500 from workers occupying such housing, in order to protect against negligence or willful destruction of property.

(B) SECURITY DEPOSIT.—An employer who provides housing to workers pursuant to paragraph (1) may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

(j) HOUSING ALLOWANCE AS ALTERNATIVE.—

(A) IN GENERAL.—In lieu of offering housing pursuant to paragraph (1), the employer may offer an allowance equal to the fair market value (but not greater than the employer’s actual cost) of temporary lodging or housing.

(B) LIMITATION.—At any time after the date that is 3 years after the effective date of this title, the governor of the State may certify to the Secretary that there is not sufficient housing available in an area of intended employment of migrant farm workers or aliens provided status pursuant to this title who are seeking temporary housing while employed at farm work. Such certification may be canceled by the governor of the State at any time, and shall expire after 5 years unless renewed by the governor of the State.

(k) ADJUSTMENT OF HOUSING ALLOWANCE.—The amount of a housing allowance under this paragraph shall be adjusted to the statewide fair market rental for existing housing for metropolitan counties for the State in which the employment occurs, as established by the Secretary of Housing and Urban Development pursuant to section 08(c) of the United States Housing Act of 1937 (42 U.S.C. 1437(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.
(2) FROM PLACE OF EMPLOYMENT.—A worker who is referred to a job opportunity under section 101(a), or an alien employed pursuant to this title, who completes the period of employment shown on the employer's application and/or participates in any representation of material facts in an application under that section. Complaints may be filed by any aggrieved person or any organization (including representing representatives). No investigation or hearing shall be conducted on a complaint concerning an employment described in this paragraph if the complaint was not filed within 180 days after the date of the filing of the complaint, or if the complaint was not filed within 12 months after the date of the filing of the complaint, as the case may be. The Secretary shall make a determination under this paragraph if there is reasonable cause to believe that a failure or misrepresentation has occurred.

(A) AMOUNT OF REIMBURSEMENT.—Except as provided in paragraph (B), the amount of reimbursement provided under paragraph (1) or (2) to a worker or alien shall not exceed the lesser of—

(i) the actual cost to the worker or alien of the transportation and subsistence involved; or

(ii) three times the maximum and reasonable transportation and subsistence costs that would have been incurred had the worker or alien used an appropriate common carrier, as determined by the Secretary.

(B) DISTANCE TRAVELED.—No reimbursement under paragraph (1) or (2) shall be required if the distance traveled is 100 miles or less.

(3) CONTINUING OBLIGATION TO EMPLOY UNITED STATES WORKERS.—

(1) IN GENERAL.—An employer that applies for registered workers under section 101(a), or an employer's application described in section 101(a) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for the Secretary's determination to an administrative law judge, who may conduct a de novo hearing.

(b) REMEDIES.—

(1) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages to an aggrieved worker or to an alien described in section 101(a)(15)(H)(iii)(a) of the Immigration and Nationality Act employed by the employer in the specific employment and for the period in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

(2) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under subsection (b), no individual member of such association may be the beneficiary of the services of an alien described in section 101(a)(15)(H)(iii)(a) of the Immigration and Nationality Act in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files an application as an individual employer or such application is filed on the employer's behalf by an association with an agreement that the employer will comply with the requirements of this title.

SEC. 09. ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS.

(a) AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.—

(I) ELECTION OF PROCEDURES.—Section 218(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1188 (b)(1)) is amended—

(A) by striking the fifth and sixth sentences;

(B) by striking ‘‘(c)(1) The’’ and inserting ‘‘(c)(1)(A) As excepted in submitted paragraph (B), the’’; and

(C) by adding at the end the following new subsection:

‘‘(B) Notwithstanding subparagraph (A), in the case of the importing of any nonimmigrant alien described in section 101(a)(15)(H)(iii)(a) of the Immigration and Nationality Act, the Secretary may elect to import the alien under the procedures of section 218A, except that any employer that applies for registered workers under such Act for the purpose of employing such an alien shall be subject to the provisions of subparagraph (A), with respect to the importing of nonimmigrants under section 218A, for purposes of paragraph (c)(1)(B), with respect to the importing of nonimmigrants under section 218A, the term ‘‘appropriate agencies of the Department of Labor’’ means the Department of Agriculture.’’.
(2) ALTERNATIVE PROGRAM.—The Immigration and Nationality Act is amended by inserting after section 218 (8 U.S.C. 1188) the following new section:

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(2) ALTERNATIVE PROGRAM FOR THE ADMISSION OF TEMPORARY H-2A WORKERS

Sec. 218A. (a) PROCEDURE FOR ADMISSION OR EXTENSION OF ALIENS.—

(i) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

(A) CRITERIA FOR ADMISSION.—

(i) IN GENERAL.—An alien described in section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act shall be admitted under this section if the alien is designated pursuant to section 218A of the Agricultural Job Opportunity Benefits and Security Act of 2006 as eligible under the Act, and the alien is not inadmissible under clause (ii).

(ii) DISQUALIFICATION.—An alien shall be ineligible for admission to the United States or be provided status under this section if the alien has, at any time during the past 5 years:

(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien’s authorized period of admission under this subsection expires;

(ii) otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

(iii) INITIAL WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—An alien who has not previously been admitted to the United States pursuant to this section, and who is otherwise eligible for admission in accordance with clauses (i) and (ii), shall not be deemed inadmissible by virtue of section 212(a)(9)(B).

(B) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the employer not to exceed 10 months, or the ending date of the anticipated period of employment on the employer’s application for registered workers, whichever is less, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period from the expiration of the alien’s work authorization, the alien is not authorized to be employed unless an employer who is authorized to employ such worker has filed an extension on behalf of the alien pursuant to paragraph (2).

(C) ABANDONMENT OF EMPLOYMENT.—

(i) IN GENERAL.—An alien admitted or provided status under this Act who abandons the employment which was the basis for such admission or providing status shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(a) and shall depart the United States or be subject to removal under section 237(a)(1)(C).

(ii) BY EMPLOYER.—The employer (or association acting as agent for the employer) shall notify the Attorney General within 7 days of an alien admitted or provided status under this Act pursuant to an application to the Secretary of Labor under section 218A of the Agricultural Job Opportunity Benefits and Security Act of 1998 by the employer who prematurely abandons the alien’s employment.

(D) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

(i) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and alien designation) such that only the Attorney General would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall:

(I) specify the date of the alien’s acquisition of status under this section;

(ii) specify the expiration date of the alien’s work authorization;

(iii) specify the alien’s admission number or alien file number.

(2) EXTENSION OF STAY OF ALIENS IN THE UNITED STATES.—

(A) EXTENSION OF STAY.—If an employer with respect to whom a report or application was described in clause (i) of section 218A of the Agricultural Job Opportunity Benefits and Security Act of 1998 has been submitted seeks to employ an alien who has acquired status under this section and who is present in the United States, the employer shall file with the Attorney General an application for an extension of the alien’s stay or a change in the alien’s authorized employment. The application shall be accompanied by a copy of the appropriate report or application described in section 218A of the Agricultural Job Opportunity Benefits and Security Act of 1998.

(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF ALIEN’S STAY.—An alien’s period of stay shall not be extended for an extension of an alien’s stay for a period of more than 10 months, or later than a date which is 3 years from the date of the alien’s last admission to the United States under this section, whichever occurs first.

(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien who is present in the United States who has acquired status under this Act on the day the employer files an application for extension of stay. For the purpose of this requirement, the term ‘‘filing’’ means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of sending and receipt.

The employer shall provide a copy of the employer’s application to the alien, who shall keep the copy of the application and employment eligibility document as evidence that the application has been filed and that the alien is authorized to work in the United States for the period of the application for an extension of stay or change in the alien’s authorized employment, the Attorney General shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is required to retain a copy of the application.

(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility document, together with a copy of an application for extension of stay or change in the alien’s authorized employment, shall constitute a valid work authorization document for a period of more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility document shall be acceptable as evidence of employment eligibility.

(E) LIMITATION ON AN INDIVIDUAL’S STAY IN STATUS.—An alien having status under this section may not have the status extended for a continuous period longer than 3 years unless, an absence breaks the continuity of the period if it lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an additional continuity of the period if it lasts for at least one-fifth the duration of the stay.

(ii) STUDY BY THE ATTORNEY GENERAL.—The Attorney General shall conduct a study to determine whether aliens under this section depart the United States in a timely fashion or the alien’s period of authorized stay. If the Attorney General finds that a significant number of aliens do not so depart and that a financial inducement is necessary to assure such departure, the Attorney General shall report to Congress and make recommendations on appropriate courses of action.

(ii) NO FAMILY MEMBERS PERMITTED.—Sec- tion 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended by striking ‘‘specified in this paragraph (other than in clause (ii)(a))’’.

(c) CONFORMING AMENDMENT.—The table of contents in the Immigration and Nationality Act is amended by inserting after the item relating to section 218 the following new item:

Sec. 218A. Alternative program for the admission of H-2A workers.

(d) REPEAL AND ADDITIONAL CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 218B of the immigra- tion and Nationality Act is repealed.

(2) TECHNICAL AMENDMENTS.—(A) Section 218A of the Immigration and Nationality Act is redesignated as section 218B.

The table of contents in the Immigration and Nationality Act is amended to read as follows:

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(8) Sec. 218A. Alternative program for the admission of H-2A workers. (B) Sec. 218B. Requirements relating to section 218 of the Act.

(C) Sec. 218C. Administrative provisions.
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(e) MAINTENANCE OF CERTAIN SECTION 218 PROGRAMS.—Sec- tion 218B(a)(a)(a)(a) of the Immigration and Nationality Act in subsection (a) is amended by paragraph (2) of this subsection is amended by adding at the end the following:

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(D) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii)(a) as may be necessary to carry out the provisions of sections 218A and 218B, and the provision for notice for purposes of such section.

(2) The provisions of subsections (a) and (e) of section 214 and the provisions of this section preempt any State or local law regulating admittance of nonimmigrant workers.
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(f) EFFECTIVE DATE.—The repeal and amendments made by this subsection shall take effect 5 years after the date of enactment of this title.

Sec. 101A.—Elimination in employment-based immigration preference allocation.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 203(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(3)(A)) is amended—

(1) by redesignating clause (ii) as clause (iv); and

(2) by inserting after clause (ii) the following—

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Mr. SMITH of Oregon. How much time is remaining?

Mr. SMITH of Oregon. We are going to reserve that for the Senator from Washington.

Mr. KENNEDY. Mr. President, I yield myself some time.

Mr. President, in 1960, Edward R. Murrow shocked the Nation with his famous television documentary on the exploitation of farm workers in America. His report, "Harvest of Shame," led to the repeal of the bracero program in 1964, under which 4.6 million Mexican workers had been brought to this country to harvest U.S. crops under harsh and abusive conditions.

I remember very clearly as a junior member of the Ways and Means Committee the extensive hearings that we had and the travels that we took to many different parts of this country.

Yet here we are today considering an amendment that creates a new large-scale foreign agricultural worker program. Don't we ever learn? Have the special interests no shame?

A new bracero program would be nothing but a gimmick that lets growers evade their responsibility to hire U.S. workers first. It requires the Department of Labor to set up a new high-tech registry in which growers post the requirements they have for labor, which they limit the issuance of visas if it finds that the employment of foreign labor is hurting U.S. workers. This bill strips all of the protections in the current program.

First, this amendment weakens the requirements to hire American farmworkers first. It requires the Department of Labor to set up a new high-tech registry in which growers post the requirements they have for labor, which they limit the issuance of visas if it finds that the employment of foreign labor is hurting U.S. workers. This bill strips all of the protections in the current program.

SEC. 12. REGULATIONS.

(a) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary and the Attorney General shall consult with the Secretary of Labor, other public and private entities, and providers. Notwithstanding paragraph (2)(A), after conducting such consultation, the Secretary shall further adjust the amount available for such programs and services, taking into consideration the need and demand for such services.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Attorney General on all regulations to implement the duties of the Secretary of State under this title.

SEC. 13. FUNDING.

If additional funds are necessary to pay the start-up costs of the registries established under section 12(a), such costs may be paid out of amounts available to Federal or State governmental entities under the Wagner-Peyser Act (29 U.S.C. 49 et seq.). Except as provided in such appropriations, additional expenses incurred for administration by the Attorney General, the Secretary of Labor, and Secretary of State shall be paid from out of appropriations otherwise.

SEC. 14. REPORT TO CONGRESS.

Not later than 3 years after the date of enactment of this Act and 5 years after the date of enactment of the Act, the Attorney General and the Secretary of Agriculture and Labor shall jointly prepare and transmit to Congress a report describing the results of a review of the implementation of and compliance with this title. The report shall address—

(1) whether the program has ensured an adequate and timely supply of qualified, eligible workers at the time and place needed by employers;

(2) whether the program has ensured that aliens admitted under this program are employed only in authorized employment, and that they timely depart the United States when their stay is authorized;

(3) whether the program has ensured that participating employers comply with the requirements of the program with respect to the employment of workers eligible to participate under this program;

(4) whether the program has ensured that aliens admitted under this program are not displacing eligible, qualified United States workers or diminishing the wages and other terms and conditions of employment of eligible United States workers;

(5) whether the provisions of this program ensure that adequate housing is available to workers employed under this program who are required to be provided housing or a housing allowance; and

(6) recommendations for improving the operation of the program for the benefit of participating employers, eligible United States workers, participating aliens, and governmental agencies involved in administering the program.
This amendment also weakens the wage standards and will depress the wages of American farmworkers already struggling to make ends meet. American farmworkers are the poorest of the working poor. I ask unanimous consent to print an article from the New York Times be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 19, 1998]

THE MIDDLE CLASS: WINNING IN POLITICS, LOSING IN LIFE

(From Louis Uchitelle)

The great American middle class, Politicians of the left and right court it. Policies liberal and conservative, are proclaimed on its behalf. Health care reform was to have eased its cares. Tuition subsidies educate its children. President Clinton promised a "middle class tax cut" a centerpiece of his election campaign.

Most voters see themselves as members of the middle classes, so Newt Gingrich, the House Speaker, picked up the theme. When the Republican-controlled Congress finally passed a tax bill last year, he described it as the "Republican tax cut of the Clinton administration." President Clinton promised—a middle class tax cut.

But for all its mythic power, the middle class is finishing last in the race for improvement in the current economic boom. At the top and bottom of the economic ladder, wages are rising briskly. In the middle, they are rising slowly. This is unusual. Upper-income people often improve their lot faster than the middle class, lower-income workers hardly at all.

The middle class of political exhortation and national myth isn't the same as the statisticians view. The wage scale isn't the place where progress is surprisingly slow. Half of the so-called middle class tax cuts enacted last year went to people earning more than $50,000. And while the median household income increased by almost $40,000 a year, the median individual wage is lower: $11.13 an hour last month, or about $22,000 a year for a 40-hour week.

It isn't that workers in this statistical middle—people earning roughly $23,000 to $55,000 a year for a 40-hour week—are抗击疫情mosquitos. They have ginned a great deal of ground to their upper- and lower-income fellow citizens. After all, their pay has gone up faster than the inflation rate over the last two years. If the increase in middle-income wages has been modest, this is more the experience of lower- and upper-income workers.

"Everyone seems to be reacting to the favorable improvement in their pay," said Richard Curtin, director of consumer surveys at the University of Michigan. "But the longer the expansion lasts, the more people will turn toward comparisons with other groups. That's when the grumbling and the wage demands begin. When you look across society, you just reach a ceiling that way." THE MIDDLE-CLASS LIFE

Lots of things can help someone improve his lot in life, of course. A rising stock market, tax breaks, inheritance, government subsides. Hardly ever do we mention the importation of foreign workers, extra hours on the job and overtime pay all play roles, particularly for those at the top and bottom of the income ladder. The reality is, for many workers, there are not wages but on earnings from their investments. And many households put together the wages of two or three household members, bringing the median household income to $40,000, which is enough to live a middle-class life in most of the United States.

By some estimates, a family of four must bring in at least $27,000 a year from one or more wage earners to maintain what John Schwarz, a political scientist at Arizona State University, described as "a minimum adequate standard of living." In pursuit of that goal, most people measure their standing in the work force by what they earn individually on the job.

The bottom 20 percent on the national wage scale, earning $14,500 a year or less for a 40-hour week, has gained the most ground over the last eight years. If wages are adjusted for inflation, lower-income Americans, those earning north of $75,000 a year, have gained almost as much as the low-income people since the year stretch. The middle group has gained a little ground since 1996, but less than the others.

BREAKTHROUGH

Viewed over the full eight years of the current economic expansion, the middle has actually lost ground, while the top and the bottom have gained at roughly the same gradual pace. Once wages are adjusted for inflation, the low end, for the first time, has regained all the ground lost in the early 1990's and is now earning more than in 1989, when the last economic expansion ended and a recession set in.

Workers earnings slightly more than the poorest group, or, at the other extreme, somewhat less than the richest wage earners, also did better than the middle, although not as well as those at either extreme. The breakthrough came this year. The low end lost 71 cents an hour last month for the bottom 20 percent, was 20 cents higher than in 1989, adjusted for inflation, according to the Economic Policy Institute, which trends with data provided by the Labor Department's Bureau of Labor Statistics.

By comparison, the median wage, smack in the middle, was $11.13 an hour in June, or 17 cents lower than in 1989. The upper end, mostly people well educated and skilled workers, seldom loses ground in any year. At the high end, the wage of $24.63 an hour today, adjusted for inflation, is 91 cents ahead of the comparable 1989 level.

This is not a year for the middle to slide in the middle. Despite all the rhetorical emphasis on policies that favor the middle class, it is low-income workers who have gotten the biggest increase in the extraordinary long economic expansion—particularly through a near-100-cent-an-hour increase in the minimum wage since October 1996. It was an increase that the Democrats proposed and the Republicans in Congress finally favored.

The minimum reached $5.15 an hour last September, and the ripple effect has pushed up wages for workers earning as much as 50 cents an hour over the minimum. That is a big portion of the people in the lower 20 percent of the American work force.

"The higher wage is the key factor that has lifted people at the bottom," said Edward Wolff, a labor economist at New York University, whose own calculations produce roughly the same results as those of the Economic Policy Institute.

The economy has played a big role, too. A surge in growth over the last two years and a fall in unemployment have cut labor shortages that showed up first at the low end of the work force. Meanwhile, middle-level workers, while finding jobs easily enough, are unlikely to be pushed by those shortages. Mr. Wolff and other labor economists tick off the reasons.

Computers have diluted the demand for clerks, secretaries and other medium-skilled workers. Unions, once the powerful bargaining agents of middle Americans, are weak today. Rising imports have hurt workers who make the same goods in this country. Corporate down sizing spread in the 1990's through white-collar ranks, making middle Americans feel less secure. They are less likely to change jobs and more reluctant to push for raises. And a bigger percentage of the work force now has a college education, raising the demand for college training, diluting the demand for them. The wages of people with only four years of college are no longer rising.

While middle income workers benefit from the tight labor market, they have a harder time digging themselves out of the wage hole," said Jared Bernstein, a labor economist at the Economic Policy Institute.

HARD TO HELP

They are also harder for government to help, says Edward Montgomery, the Labor Department's chief economist. A huge swath of people who earn roughly $23,000 to $55,000 a year—and pay more than 40 percent of all Federal income taxes—are much more on their own than lower-income workers. There are government-subsidized training programs, for example, to get unemployed people into the low end of the labor force. The Department of Labor, for example, is paying $384 to 20 years of an $800-a-month tax credit (a Republican initiative that rebates tax revenue to low-wage workers) put a floor under their income. But middle-level people are not getting the same training with their employers to determine their situations.

This is harder for government policies to reach these middle level people," Mr. Montgomery said. "In a free enterprise society, we are hesitant to subsidize an employer for something he would do anyway.

Mr. KENNEDY. This study shows that despite the extraordinary prosperity we have seen in the United States, the farmworkers are on the lowest rung—working the hardest—the lowest rung of the economic ladder and have moved backward in terms of their real purchasing power. They already suffer double-digit unemployment, and this amendment will make that crisis worse. It eliminates the requirement in current immigration law that foreign farm workers must be paid a wage that will not depress wages for American farm workers.

Even if an American worker shows up early in a harvest, he will not be guaranteed the job if there is a foreign worker. In fact, that is the way most American migrant farmworkers get their jobs—just showing up. For years—for decades—they have traveled farm to farm at harvest time. They show up for the job, harvest after harvest.

Under current law, if an American worker shows up early in a harvest, he gets the job, even if a foreign worker is already there. This is called the "50 percent rule." In this amendment, if that American worker is not on the new computer "registry," he cannot get the job.

I am also concerned that this amendment will encourage illegal immigration. After spending billions of dollars to strengthen the Border Patrol to keep illegal immigrants out, it makes no sense to instruct the INS to cut a gaping hole in the border fence, and look the other way as illegal immigrants pour through.

We know from the hard lesson of past experiences that foreign agricultural
worker programs create patterns of illegal immigration that can't be stopped. The first workers to come here may be legal, have temporary work visas—but they create an endless chain of illegal immigration, as relatives, neighbors, and friends follow them into the United States.

In fact, under this amendment, if you work in this program for four years, you get a green card and can stay in America forever. An unlimited number of workers can enter under this reckless program with no controls whatever, no way of knowing who they are, whether they have any bona fide documents. They then apply for 50,000 people, as could be authorized and the foreign workers come in. There is no way of knowing who they are, whether they have any amends.

Additionally, once a worker is in the United States, he may apply for a 3-year extension. Therefore, you effectively are granting a stay of years to someone who comes in. They then return, and if they come back for one more year, they are here for a 2-year stay. This program represents a baseline of individuals and families who eventually will reside permanently in the United States. Although meant to be a temporary supplement to our unemployed, this bill will go into play. The large agricultural associations will apply for 20,000, 30,000 permits at a time. The Department of Labor has 7 days to respond to that. If they don't respond to that huge number in that period of time, the permits are authorized and the foreign workers come in. There is no way of knowing whether they have any files. It is physically impossible to consider 20 or 30,000 applications in 5 days. It is physically impossible to consider the Secretary of Labor the opportunity to see that which the employer has not received referral of registered workers.

There then is an expedited consideration by the Secretary of Labor. It is physically impossible to consider 20 or 30,000 applications in 5 days. It is set up to permit the entry of large numbers of people about whom nothing will be known—whether they really will go home, whether they really will stay at the job, work at the job. I think this is going to make the Bracero Program look good in retrospect.

Now, what I object to is I would like to vote for something that would help what is becoming an increasing problem. The increasing problem is that increasingly farmers cannot find adequate labor to harvest their crops. In our State, you have these counties with 20 percent and 30 percent unemployment rates. It is amazing, but it is true. Unemployment rate is high, but the farmer cannot find the help. This is where the registry was supposed to help. But the registry and the importation program go into effect simultaneously. Consequently, if there is no body to the registry, you have the option of importing 20, 30, 50, 75,000 workers with no limit. That is what I had hoped we would have the time to work out. We don't know whether the housing allowance will work in California. Costs are much higher. Housing is unavailable.

The time has either been used or yielded back, an amendment is not in order.

Mrs. FEINSTEIN. All right. Mr. KENNEDY. Mr. President, I think the opponent of the major amendment knew that this was going to be offered. I ask unanimous consent it be in order now to be able to offer the amendment.

Mr. SMITH of Oregon. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk reads as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3282 to amendment No. 3258. The amendment is as follows:

On page 20, line 19, after the period, insert: "Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H-2A visas that they may sponsor at the discretion of the Secretary of Labor."

Mrs. FEINSTEIN. What this does, and I quote from the amendment:

Independent contractors, agricultural associations and such similar entities shall be subject to a cap on the number of H-2A visas that they may sponsor at the discretion of the Secretary of Labor.

This would give the Secretary of Labor the opportunity to see that there is a reasonable number attached to this limited processing time because with the limited processing time, if you apply for 50,000 people, as could well be the case in California, you would not be able to meet the processing deadline.

The PRESIDING OFFICER. The time of the Senator has expired.

Mrs. FEINSTEIN. I thank the Chair. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator has 10 minutes remaining; opposing has 3 minutes remaining.

Mr. WELLSTONE addressed the Chair.

Mr. WELLSTONE. Mr. President, it is hard to do justice to the topic in 5 minutes.

Let me say I think something is happening on the floor of the Senate that takes us backward as a nation. There have been many people that have given their sweat and tears and even blood to try and improve conditions for farm workers. There have been Senators in the past that have done that. This amendment really undercuts some of this very important work.

What we are saying in this amendment is essentially this: We are saying...
to the growers, listen, you don't have to really worry about the market. If the growers can't find the workers, pay better wages and have better working conditions. How many more reports do we have to have, from Harvest of Shame to today in 1998 about working conditions? The wages and uncivilized working conditions of farm workers are a national disgrace. If the growers want to have people working for them, then just have civilized working conditions and decent wages.

What this amendment essentially says is that what we are going to do is actually add to the exploitation by enabling you growers to essentially rely on a new guest worker program. Mr. President, we don't need a new guest worker program. Senator Kennedy talked about the GAO report. I heard the farm worker justice fund mentioned earlier. They don't talk about this as reform; they talk about it as a form. We have a very strange situation here. We are saying that the growers can't get the workers, and now what we have is a program that puts payments for guest workers. This cuts the payments for the guest workers. So in order to attract more workers, we enable growers to rely on people coming from other countries, and we cut their wages.

I don't call this a reform. I don't call this a change for the better. What we are essentially doing is putting the Federal Government in the service of a sector—in this particular case the growers—as a source of cheap labor. It is a huge mistake. Now, if we want to do better by way of working conditions for legal workers, I am all for it. If we want to reform the Guest Worker Program, I am all for it. But that is not what this is about. This is a huge step backward.

I hear about the vouchers. I mean, I did a lot of organizing in rural communities and the question is whether a grower can make any housing. What good does it do to have vouchers if there isn't adequate housing there? We no longer deal with that protection. Then, in addition, the three-fourths minimum work guarantee is eliminated.

Workers who used to travel long distances are now promised wages for at least three-fourths of the season for which they are being hired. That guarantee is no longer there. This essentially means that there are no more workers in the back of a U-Haul or anything else. It adds to exploitation. It undercut the working conditions of farm workers, which are already atrocious in this country. I say to the growers, with all due respect, if you want to have more people working for you, pay decent wages, have civilized working conditions. We ought not to be asking the Federal Government to essentially move in and supply these growers with a form of cheap labor, exploited labor. This isn't reform, this is defection. I hope there will be a strong vote against it.

Mr. Smith of Oregon addressed the Chair.

The President of the Senate. The Senator from Oregon is recognized. Mr. Smith of Oregon. Mr. President, I yield the balance of my time to the Senator from Washington.

The President of the Senate. The Senator from Massachusetts is recognized. Mr. Kennedy. Mr. President, these agricultural workers are already here. The Senator from California spoke of 2 million illegal workers already here. But we would think from the remarks of the opponents and the amendment that somehow or another we were spoiling a very good system that gave high wages, a wonderful set of attractions, and only needed to be strengthened. We aren't, Mr. President.

We have a situation that makes a violator of the law out of almost every agricultural employer in the United States of America who needs labor on a seasonal basis. What we propose to do is to say that many of these workers, whatever their conditions, are illegal. The effect is that the employers who hire them are the ones who they came, which is the reason they are willing to pay good money to be smuggled across our borders, several of whom die in the desert in the attempt to hide during the time that they are there any of the rights they might otherwise have.

Our proposal would make many of them legally here, with very real rights, with the ability to go home legally and to come back again legally, rather than to have to stay because of the difficulty of crossing the border. Mr. President, tens of thousands of words have been uttered on the floor of this Senate in the last 3 weeks about the plight of our farmers, with collapsed Asian markets and lower prices. Here, for once, we have an opportunity to do something tangible for our farm community, to give them the labor that they cannot get in any legal fashion from citizens, or others, to allow them to hire these workers without the difficulty of crossing the border. Mr. President, ten thousand of words have been used on the floor of this Senate in the last 3 weeks about the plight of our farmers, with collapsed Asian markets and lower prices.

Do we want the labor that is there now, and will be there tomorrow, to be legal labor? Or do we think the present situation with all these illegals is perfect, with dead-enders or no; up or down. I allow that these people be here illegally, to help us to improve their own lives legally.

The President of the Senate. The time of the Senator has expired. Mr. Kennedy. Mr. President, I understand the amending process.

The President of the Senate. Five minutes remain.

Mr. Kennedy. I yield a minute to Senator Wyden.

Mr. Wyden. Mr. President, I thank my colleague for his patience. It has been mentioned that this is in some way a bracero program. My friends, this is not. Under the Bracero Program, for example, there was no right of first refusal for U.S. workers to available jobs in our country. That is what is different here—U.S. workers first, first dibs on any available position.

Point No. 2: There has been discussion that this would be in some way increase illegal immigration. Right now, of the 1.6 million farm workers, perhaps a million of them are illegal. What we are advocating is an above-ground system that guarantees fundamental protections to legal workers, that rewards both the workers and the growers. That is why this proposal makes sense. I hope it will receive strong support from our colleagues.

Mr. Kennedy addressed the Chair. The President of the Senate. The Senator from Massachusetts.

Mr. Kennedy. Mr. President, I have talked to the managers of the bill and the acceptance of an amendment.

I ask unanimous consent that the pending amendment be temporarily set aside.

The President of the Senate. Without objection, it is so ordered.

Amendment No. 3283 to Amendment No. 328

Mr. Kennedy. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The President of the Senate. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. Kennedy] proposes an amendment numbered 3283 to amendment No. 328.

The amendment is as follows:

At the end of the amendment add the following:

Sec. 1. Presidential Authority.

In implementing this title, the President of the United States shall not implement any provision that he deems to be in violation of any of the following principles: where the procedures for using the program are simple and the least burdensome for growers; which assures an adequate labor supply for growers in a predictable and timely manner; that provides a clear and meaningful first preference for U.S. farm workers; that rewards both the workers and the growers; and which assures an adequate labor supply for domestic and foreign farm workers, and that normal market forces will work to improve wages, benefits, and working conditions.

Mr. Kennedy. Mr. President, I yield myself 2 minutes.

Mr. President, as I have expressed, I have serious concerns about the development of this program. Similar kinds of programs have been considered and rejected by the Hesbogom Commission.
The Barb  a Jordan Commission, which really had many thoughtful men and women on it, reviewed these kinds of programs and expressed the same kinds of concerns that I have expressed here briefly this afternoon. For that reason, as well as the very important adverse impact that I think it will have on wages; and because of its impact in terms of opening up some unpredictable, unknown, and uncertain aspects of immigration policy that I oppose this.

Having said all that, I commend my friends, Senator SMITH and Senator WYDEN. They have appeared before our committees on this issue. They have been enormously constructive and positive and responsive to those that had differing views on this. They have, brought a very considerable amount of thought to this issue and they have impressed me, as I know they have all Members, about their willingness to try and work this thing through in a constructive way. I intend to vote in opposition for the reasons outlined. But I want to work with them and see if we cannot respond to these kinds of concerns. Both of them have expressed their deep concerns about these issues as well. We do have differences, but they have demonstrated on this issue, as in other areas, a willingness to try and find common ground. I thank them for their courtesies to date and for their willingness to continue to develop something that is going to be effective. I and others who share this view will look forward to working with them.

Mr. President, I am prepared to yield whatever time I have to the Senator from Oregon.

Mr. SMITH of Oregon addressed the Chair.

The PRESIDING OFFICER. The Senator has 40 seconds.

Mr. SMITH of Oregon. Mr. President, I thank the Senator from Massachusetts.

I join in the spirit of trying to work on this issue to resolve a situation that I truly believe is broken. If we don’t succeed in this, we are frankly not going to say that we are content with the status quo. The status quo is not acceptable. These people are here in this country illegally. There ought to be a way wherein they can be here legally to do this work, which they want to do, and which we need them to do in order to avoid a serious crisis on the American farm.

I ask my colleagues to support this amendment. It is historic. It is important. But it is also a work in progress. This bill represents progress.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. All time has expired.

The question is on the Kennedy second-degree amendment.

Mr. GREGG addressed the Chair.

Mr. GREGG. Mr. President, I ask that the underlying amendment be modified with our amendment. I ask unanimous consent that be done.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The amendments (Nos. 3282 and 3283) were agreed to.

Mr. KENNEDY. As I understand it, Mr. President, the proposal of the Senators from California and Massachusetts has been included in the underlying amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I thank the Chair.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. For the information of all of our Members, we will begin voting on this amendment and then proceed to final passage at approximately 3:30.

MODIFICATION TO AMENDMENT NO. 3261, AS MODIFIED, PREVIOUSLY AGREED TO

Mr. GREGG. Mr. President, I send to the desk on behalf of Senator SPECTER a technical modification to the Craig amendment numbered 3261.

(2) Within funds appropriated in this Act for necessary expenses of the Offices of United States Attorneys, $1,500,000 shall be available for the Attorney General to hire additional assistant U.S. attorneys and investigators in the city of Philadelphia, Pennsylvania, for a demonstration project to identify and prosecute individuals in possession of firearms in violation of federal law.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

Mr. GREGG. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. Mr. President, while we are waiting, I would like to take a moment. We are, hopefully, about to move to final passage after the vote on the Smith amendment is taken care of.

I would like to take a moment to thank the staff for the extraordinarily hard work they put into this. Both the majority staff and the minority staff spent countless hours bringing this bill forward. It is a complicated bill. They spent the last 3 or 4 days, almost, working on it. We have seen a lot of amendments. More than a little bit of intricate thought has gone into it. It has a very complex matrix of issues.

And it could not possibly have been managed without the strong and professional support that we have received from the staff.

I would like to also specifically thank former minority clerk Scott Gud es, who now works on but whose term was extraordinary, and whom I very much enjoyed working with. His replacement, Lila Helms, is a great addition and has carried on Scott’s exceptional work. Emelie East and Dereck Orr have also been great assets, I am sure, to the minority and to the majority, as a result of their efforts.

On my own staff, countless hours have been put in. I especially thank Jim Morhard, who is clerk of the committee. I don’t think he has seen his family, or anyone else, other than the inside of these walls for days and weeks. I very much appreciate his efforts and the expertise he has brought to this.

Along with him, the professional staff of Paddy Link, Kevin Linsky, Carl Truscott, Dana Quam, and Vas Alexopoulos have been extraordinary: Kris Pickler, and Jackie Cooney of my personal staff, and Virginia Wilbert, who have been extraordinary also, have not only put their oars in but have aggressively rowed this boat toward the shore. We hope it will arrive very soon.

It is really a team effort. And we have an extremely strong team, a team made up of Cal Ripkens and Ken Griffeyes. We are very lucky to have them, and we thank them for all their tireless effort.

I have been advised that the Democratic leader is willing to proceed with a vote at 3:15. We will begin voting on the Smith amendment at 3:15.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me thank Chairman GREGG in the first instance. I have had the pleasure of handling several bills myself. I have watched it for over 30 years. Several Senators on our side of the aisle have remarked along with me in the back of the cloakroom that they have never seen a bill that was better managed and that Senator GREGG has done an outstanding job, which I want to note for the RECORD.

As the distinguished Senator stated, the staffs on both sides have just done an outstanding job. They have worked around the clock. I have never seen this many amendments actually move in this short a time. It couldn’t have been done, of course, without the folks here right at the front desk on both sides of the aisle.

Let me thank Jim Morhard, Kevin Linsky, Paddy Link, Carl Truscott, Dan Quam, and Virginia Wilbert, of the majority staff; and Lila Helms, Emelie East, and Dereck Orr. Actually, as Senator GREGG has come in now to replace Scott Gud es, which is next to impossible. He was as good as there ever was. But she has already brought that statement into con- tect. She, Emelie East, and Dereck Orr have been working on the clock and have been doing a great job.

I am glad that the Senator from New Hampshire notes this for the RECORD. Too often we forget that we couldn’t handle these bills without Scott Gud es, Dereck Orr, and our side of the aisle. I can tell you that.

Mr. GREGG. Mr. President, I ask unanimous consent that the managers'
amendments be in order notwithstanding the fact that they amend language already amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS Nos. 3284 THROUGH 3321, EN BLOC.

Mr. GREGG. I now send to the desk a series of amendments cleared by both managers on behalf of myself and Senator HOLLINGS. I further ask they be considered and adopted en bloc and motion to reconsider these amendments be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk reads as follows:

The Senator from New Hampshire [Mr. GREGG], for himself and Mr. HOLLINGS, proposes amendments numbered 3284 through 3321, en bloc.

Mr. GREGG. I renew my unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3284 through 3321) were agreed to, as follows:

TITLe I—DEPARTMENT OF JUSTICE

On page 2, line 24, insert "forfeited" after the first comma.

On page 45, line 17, strike "13" and insert "206".

On page 5 of the Bill, on lines 8 and 9, strike the following: "National Consortium for First Responders", and insert the following: "National Domestic Preparedness Consortium".

On page 27 of the Bill, on line 10, after the words "unit of local government", insert the words "at the parish level".

On page 29 of the Bill, on line 13 after "Tribal Courts Initiative", insert the following: "...including $400,000 for the establishment of a Sioux Nation Tribal Supreme Court".

On page 51 of the Bill, after line 9, insert the following:

SEC. 121. Section 170102 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14072) is amended—

(1) in subsection (a)(2), by striking "or"; and

(b) TECHNICAL AMENDMENT. The analysis of chapter 110 of title 18, United States Code, is amended by adding at the end the following:

§2261. Publication of identifying information relating to a minor for criminal sexual purposes.

(Purpose: To require Internet access providers to make available Internet screening software.)

On page 133, between lines 11 and 12, insert the following:

SEC. 230. (a) REQUIREMENT. Section 230 of the Communications Act of 1934 (47 U.S.C. 230) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following new subsection (d):

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(b) APPLICABILITY. The amendments made by subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

Mr. DODD. Mr. President, I rise today to offer an amendment designed to protect children from predators on the Internet. According to Wired magazine, there are...
The amendment would allow customers to have the opportunity to obtain—either for a fee or no charge, as determined by the provider—screening software that permits customers to limit access to material on the Internet that is harmful to minors. Like the child-proof lid for a prescription medication, my bill would require that Internet access providers ask parents whether they would like to obtain screening software. It is not enough to believe that children using the Internet would be protected from pornography and predators. And it is not a substitute for parental supervision. But it can be an extension of parental supervision—a tool we put in their hands to help protect their kids—much as we did when we voted to give parents the v-chip.

I hope my colleagues will endorse this amendment, and I urge its adoption.

AMENDMENT NO. 3287

(Purpose: To move Schuylkill County, PA from the Eastern District to the Middle District of Pennsylvania)

SEC. 2. TRANSFER OF COUNTY.
(a) In section 118 of title 28, United States Code, is amended—
(1) in subsection (a) by striking “Philadelphia, and Schuylkill” and inserting “Philadelphia” and “Schuylkill” after “Potter”;
(2) in subsection (b) by inserting “Schuylkill,” after “Potter.”;
(b) EFFECTIVE DATE.
(1) In general. This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.
(2) Pending cases not affected. This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.
(3) JURIES NOT AFFECTED. This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this Act.

AMENDMENT NO. 3328

(Purpose: To require a report regarding the analysis of the United States Trade Representative with respect to any subsidies provided by the Government of the Republic of Korea to Hanbo Steel)
At the appropriate place in title VI, insert the following new section:

SEC. 3. REPORT ON KOREAN STEEL SUBSIDIES.
(a) In general. Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the “Trade Representative”) shall report to Congress on the Trade Representative’s analysis regarding—
(1) whether the Korean Government provided subsidies to Hanbo Steel;
(2) whether such subsidies had an adverse effect on United States companies;
(3) the status of the Trade Representative’s contacts with the Korean Government with respect to the pending WTO appeals regarding Hanbo Steel and efforts to eliminate subsidies; and
(4) the status of the Trade Representative’s contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

(b) STATUS OF INVESTIGATION. The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell steel in Korea at a price that is 30 percent lower than the international market prices.

Mr. BYRD. Mr. President, this amendment addresses the continued problem of trade-distorting subsidies given by the Korean Government to its domestic steel industry. Unfair trade practices by the Korean Government are undermining the U.S. steel industry—including one of West Virginia’s largest employers, Weirton Steel Corporation—to lose millions of dollars. These losses impact U.S. communities, which must carry the burden of Korea’s unfair practices by contending with a lower tax and job base.
I joined my colleagues in the Senate Steel Caucus in signing letters to U.S. Trade Representative (USTR) Charlene Barshefsky and U.S. Department of Commerce Secretary William Daley requesting investigations by the United States Trade Representative of the World Trade Organization (WTO) Subsidy Code. Regrettably, the responses to those letters were not satisfactory.

My amendment would simply require the United States Trade Representative to report on Korean steel subsidies. Accurate information on unfair trade practices is vital to the future of the U.S. steel industry and its workers. This amendment would send the Korean Government a clear message that we expect our trading partners to adhere to fair trading practices, but, more importantly, it would send a message to American workers that this Congress is prepared to defend our own commercial interests and take action against the Korean Government’s infringement upon U.S. rights under the WTO agreement.

U.S. imports of steel from South Korea have increased by nearly forty-five percent during the first four months of 1998. These surging Korean steel imports are possible due to the Korean government’s continued use of illegal subsidies—subsidies that unfairly disadvantage the U.S. steel industry. The negative impact of these Korean subsidies cannot be ignored. Illegal foreign steel sales are severely undermining the economic stability in regions throughout our country that rely upon steel for jobs—literally taking money out of the pockets of these workers as well as their neighbors, who depend upon this industry for their livelihood.

For the U.S. steelworkers in the Upper Ohio Valley and throughout our nation, we must continue to pursue efforts to end the entry of foreign products into this country that unfairly and illegally undermine our industry. We must restore confidence in our trade laws.
I appreciate Members’ support of this initiative.
The small fishing vessels that operate in and around the larger vessels that will be required to convert to GMDSS.

When a fishing vessel is in distress, the vessels closest to it and in the best position to provide assistance to fishing vessels working in the same area.

But, Mr. President, what will happen when the small vessel sends out a distress call, only to find that the larger and better-equipped vessels around it are no longer listening? This is—obviously—and with very good reason—a major concern. Under the theory of GMDSS, contact with other vessels is to be replaced by contact with a shore station. That's all well and good on an international voyage, where it may eliminate confusion and speed up response. But for fishing vessels, it may very well slow response time—and believe me, Mr. President, in the high waters of this country, in the winter, every second counts toward life—or toward death. Because of this, there is a very real danger that shifting the largest and most capable vessels of the fleet to GMDSS may actually delay, not improve response, in the very area for which it was designed.

In fact, although the GMDSS system is supposed to replace ship-to-ship communications with a unified ship-to-shore system maintained by the Coast guard, the fact is that the Coast Guard itself is not ready to implement it fully.

With the system scheduled to go into effect in just a few months, there are still major shore-based components that have not yet been installed. In Alaska, for example, the Coast Guard is only this summer starting the installation of medium-frequency receivers. In Iceland, installation of VHF receivers has been delayed indefinitely—it is “on hold.” According to the Coast Guard’s own task force on GMDSS, the VHF system will probably not be in place before 2003 at the earliest.

The fact that GMDSS was not designed for the fishing fleet is an issue itself. Most every mariner of any sort is familiar with SOLAS, and knows that it does not apply to fishing vessels. As a result, when the FCC published the proposed GMDSS rule in 1990, and when it made the rule final in 1992, the fishing industry was not made aware that it would be applied to fishing industry vessels, which are generally treated as a separate class of vessels under U.S. law.

Indeed, when the proposed GMDSS regulation was printed in the Federal Register in 1990, it specified that fishing vessels were included: “Small ships, such as private fishing vessels and recreational yachts, are not affected by the proposed changes.” This same statement is still being repeated, in an informational document about GMDSS that is currently offered on the FCC’s Internet site.

Given this confusion, it is no wonder that the fishing industry’s concerns did not surface sooner; most of the industry was unaware of the need to comment. This alone is a huge flaw in the way the rulemaking was conducted, but one that can be corrected given a little more time to explore and address the issues involved before any regulatory action is taken.

Mr. President, the affected fishing industry vessels already carry all but one feature of the GMDSS system. They have VHF radios and single-sideband radios, EPIRBs, radars, radar transponders, and hand-held VHF radios for their life rafts, and so forth. Each vessel already carries—at a guess—$20,000 to $30,000 worth of sophisticated communications equipment. The only thing they are lacking is the Digital Selective Calling (DSC) feature.

In a recent meeting with the Coast Guard and the FCC, we learned that there is no reason DSC could not be added to the existing equipment for a very reasonable cost—perhaps $5,000. However, the industry has indicated that electronics vendors have so far either declined to sell DSC as a separate component, or if they do, they offer a component warranty on it. Instead, the industry was insisting that fishing industry purchase large consoles where all of the GMDSS equipment is pre-installed—at a cost of $50,000 to $60,000 dollars each. Because of the confined nature of the wheelhouse on the average vessel, significant structural changes may have to be made to fit the console in place, and of course, the existing $30,000 of equipment would have to be scrapped. That means, Mr. President, that the cost of outfitting these vessels may reach $100,000—all to get a $5,000 piece of equipment on board. That, Mr. President, is just plain wrong.

There are just a few of the very serious issues that justly demand a delay for fishing industry vessels so that the rule can be re-examined and improved with better input from the industry. No one wants to see safety degraded in any respect, including by mandating “improvements” that may be no such thing.

It may be that GMDSS is the way to go for fishing industry vessels as well as the large international cargo vessels and passenger liners it was designed for. If so, it should be adopted, and I’m sure it will be. But if not, we must take the time to listen first.

Mr. GREGG. Will the Senator from Alaska yield for a question?

Mr. MURKOWSKI. Mr. President, I am very happy to yield for a question from the distinguished manager.

Mr. GREGG. It is my understanding that the fishing industry vessels are insisting that the application of the GMDSS requirements for fishing industry vessels, but not other types of vessels. Is that the understanding of the Senator from Alaska?

Mr. MURKOWSKI. Mr. President, the manager is quite correct. This amendment will apply only to fishing industry vessels such as catcher-boats,
catcher-processors, and fish tender vessels. Other types of vessels to which the rule applies, such as cargo and passenger ships, will not be affected.

Mr. GREGG. Is it the Senator's intention that the federal agencies involved would then use this period of time to further examine the issue of applying GMD requirements to the fishing industry?

Mr. MURKOWSKI. Once again, Mr. President, the distinguished manager is correct. Based on discussions with the two agencies directly involved in this matter, and with the fishing industry, it is evident that the industry has legitimate concerns and questions that have not been answered. The moratorium will allow the agencies the time to revisit the issue in the detail that it deserves. I hope they will take the opportunity either to reopen the rulemaking with respect to fishing industry vessels or to open a new rulemaking specifically dealing with such vessels, so that the unique characteristics of the fishing industry are considered.

Mr. GREGG. I thank the Senator. In my view this is a very legitimate goal and I join the Senator from Alaska in expressing the hope that the agencies will revisit this matter.

AMENDMENT NO. 200
(Purpose: To provide for the payment of special masters, and for other purposes)

At the appropriate place, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.
(1) REQUIREMENT.—
(A) IN GENERAL.—Notwithstanding any other provision of law, for the processing of any application for the issuance of a machine readable border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age, the machine readable border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has a visa under such section or is applying for a machine readable border crossing card and nonimmigrant visa under such section as well.
(B) DELAY IN COMMENCEMENT.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—
(i) the date that is 6 months after the date of enactment of this Act; or
(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).
(2) PERIOD OF VALIDITY OF VISAS.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the machine readable border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act, which is otherwise covered by subparagraph (A), is valid for one year prior to the date of issuance of the border crossing card and nonimmigrant visa, extends the period of validity of the visa under such section as well.
(B) EXCEPTION.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State and the Attorney General may charge a fee for the processing of any application for the issuance of a machine readable border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable border crossing card and nonimmigrant visa is issued to expire as of the date set by the Secretary for the same date as the fee or surcharge provided for visas issued under section 101(a)(15)(B) of the Immigration and Nationality Act.
(3) RECoupMENT OF COSTS RESULTING FROM WAIVER.—Notwithstanding any other provision of law, the Secretary of State shall set the amount of the fee or surcharge authorized pursuant to section 146(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-286; 8 U.S.C. 1351 note) for the processing of machine readable border crossing cards and nonimmigrant visas to a level that will ensure the full recovery by the Department of State of the costs of processing all such combined border crossing cards and nonimmigrant visas, including the costs of processing such cards and visas, the combined nonimmigrant visas for which the fee is waived pursuant to this subsection.

(b) PROCESSING IN MEXICAN BORDER CITIes.—The Secretary of State shall continue, until at least October 1, 2003, or until all border crossing identification cards in circulation have otherwise been replaced under section 104(b)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as added by section 121 of this Act), and all visas for certain Mexican citizens and to require the continuing processing of applications for visas in certain Mexican cities on page 100, between lines 18 and 19, insert the following:
SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.

AMENDMENT NO. 201
(Purpose: To provide for the waiver of fees for the processing of combined border crossing cards and nonimmigrant visas for certain Mexican citizens and to require the continuing processing of applications for visas in certain Mexican cities)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.

AMENDMENT NO. 202
(Purpose: To provide for the waiver of fees for the processing of combined border crossing cards and nonimmigrant visas for certain Mexican citizens and to require the continuing processing of applications for visas in certain Mexican cities)

On page 100, between lines 18 and 19, insert the following:

SEC. 407. (a) WAIVER OF FEES FOR CERTAIN VISAS.

Mr. GREGG. Mr. President, I am introducing an amendment to the Commerce/Judice/State Appropriations bill regarding the Consular Service and the issuing of tourist visas.

I strongly endorse tight immigration controls and strict visa policies to ensure that illegal aliens and criminal activity do not cross our nation's borders.

At the same time, we must recognize the economic importance of tourism in
this country and ensure that legitimate foreign travelers are not penalized by an overwhelmed consular service.

To that end, I am asking the State Department to report to Congress on a regular basis the status of visa backlogs at our embassies worldwide and to conduct a study on whether the appropriate resources are being dedicated to the consular service.

Tourism is a $473 billion dollar business in the United States and our country's second largest employer, behind the health care industry.

We bring in more tourists to the U.S. than we send overseas, creating a $26 billion dollar trade surplus, equal in size to the car and auto parts trade deficit with Japan.

By the year 2007, less than ten years away, the World Tourism Organization predicts the U.S. tourism market will double to nearly $885 billion dollars.

We must make certain our consular services and visa procedures are streamlined, improved, and protective of national security interests in order to capitalize on the growing international tourism market.

I hope the by the passage of the VISA Act, we can support me in requiring the State Department to study consular resources and report back on what improvements or resources are needed to make it the best in the world, a secure system that can help promote U.S. as an international destination.

AMENDMENT NO. 3293

On page 86, line 8, insert the following after the colon: "Provided further, That not to exceed $2,400,000 shall only be available to establish an international center for response to chemical, biological, and nuclear weapons:"

At the end of title VI, insert the following:

DEPARTMENT OF STATE

Contributions to International Organizations (Recession)

Of the total amount of appropriations provided in Acts passed before this Act for the Interparliamentary Union, $400,000 is rescinded.

AMENDMENT NO. 3294

(Purpose: Relating to arraignment payments to the United Nations)

(The text of the amendment (No. 3294) is printed in today's Record under "Amendments Submitted.")

AMENDMENT NO. 3295

(Purpose: To provide for reviews of criminal records of applicants for employment in nursing facilities and home health care agencies)

At the appropriate place in the bill, insert the following:

Criminal Background Checks for Applicants for Employment in Nursing Facilities and Home Health Care Agencies

Sec. 3.-(a) Authority to Conduct Background Checks.--

(1) In General.--A nursing facility or home health care agency may submit a request to the Attorney General to conduct a search and exchange of records described in subsection (b) regarding an applicant for employment if the employment position is involved in direct patient care.

(2) Submission of Requests.--A nursing facility or home health care agency requesting a search and exchange of records under this section shall submit to the Attorney General a copy of the applicant's fingerprints, a statement signed by the applicant authorizing the nursing facility or home health care agency to request the search and exchange of records, and other identification information not more than 7 days (excluding Saturdays, Sundays, and legal public holidays under section 6103(a) of title 5 United States Code) after acquiring the fingerprints, signed statement, and information.

(b) Search and Exchange of Records.--Pursuant to any submission that complies with the requirements of subsection (a), the Attorney General shall search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation for any criminal history records corresponding to the fingerprints or other identification information submitted. The Attorney General shall provide any corresponding information resulting from the search to the appropriate State or local governmental agency authorized to receive such information.

(c) Use of Information.--Information regarding an applicant for employment in a nursing facility or home health care agency obtained pursuant to this section may be used only by the facility or agency requesting the information and only for the purpose of determining the eligibility of the applicant for employment by the facility or agency in a position involved in direct patient care.

(d) Fee.--The Attorney General may charge a reasonable fee, not to exceed $50 per request, to any nursing facility or home health care agency requesting a search and change of records under this section to cover the cost of conducting the search and providing the records.

(e) Report.--Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches of records of applicants for employment in nursing facilities and home health care agencies and the disposition of such requests.

(f) Criminal Penalty.--Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(g) Immunity From Liability.--A nursing facility or home health care agency that, in denying employment for an applicant, reasonably relies upon information provided by the Attorney General pursuant to this section shall not be liable to the applicant for the employment determination resulting from the incompleteness or inaccuracy of the information.

(h) Regulations.--The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) Definitions.--In this section:

(1) Home Health Care Agency.--The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) Nursing Facility.--The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individual residents, whether or not the facility or institution is licensed as a nursing facility and is also licensed as a hospital, hospital emergency room, or a medical care facility.

(j) Applicability.--This section shall apply without fiscal year limitation.
thank the managers for working with me in this effort. I yield the floor.

AMENDMENT NO. S8857

(Purpose: To prohibit the use of funds for foreign travel or foreign communications by officers and employees of the Antitrust Division of the Department of Justice.)

On page 51, between lines 9 and 10, insert the following:

Section 1: None of the funds made available to the Department of Justice under this Act may be used for any expense relating to, or as reimbursement for any expense incurred in connection with any foreign travel by an officer or employee of the Antitrust Division of the Department of Justice, if that foreign travel is for the purpose, in whole or in part, of soliciting or otherwise encouraging any antitrust action by a foreign country against a United States company that is a defendant in any antitrust action pending in the United States in which the United States is a plaintiff. Provided, however, That this section shall not: (1) limit the ability of the Department to investigate potential violations of United States antitrust laws; or (2) prohibit assistance authorized pursuant to 15 U.S.C. sections 6201-6212, or pursuant to a ratified treaty between the United States and a foreign government, or other international agreement to which the United States is a party.

Mr. GORTON. Mr. President, the Justice Department is out of control. Mr. President, evidence appears to be mounting that officials at the Department's Antitrust Division have been traveling around the world urging foreign governments to join them in their witch hunt against Microsoft.

As far as I understand, such action should be prohibited. It seems the Administration is reaching out to help foreign competitors overseas. While foreign governments work hard to protect their most important industries, the Justice Department is assisting those foreign governments in their efforts to keep one of America's most vibrant, innovative, and successful companies out of their markets.

In a letter sent last week to Attorney General Janet Reno, my colleagues Senators Sessions, Abraham, and Kyl raised some provocative questions about the activities of Justice Department officials overseas. They have learned that Joel Klein and his staff at the Department's Antitrust Division are busily recruiting their foreign counterparts in their war against Microsoft.

First and foremost, Mr. President, I'd like to know if the Antitrust Division officials, whose work focuses exclusively on issues here at home, are doing traveling overseas at the taxpayers' expense. According to the letter, in the last six months, Joel Klein has traveled to Japan, Russell Pittman, Chief of the Competition Policy Section of the Antitrust Division has visited Brazil, Dan Rubinfeld, chief economist for the Antitrust Division has gone to Israel, and Deputy Assistant Attorney General Douglas Melamed spent a week in Paris in June.

At a time when Joel Klein has been complaining that his division does not have enough money or people to do its job effectively, he and his staff are traveling around the world on the Justice Department's dime. And they are using those foreign visits as a bully pulpit to tout the merits of their case against Microsoft and encouraging foreign governments to join in their witch hunt against Microsoft.

This kind of activity is reprehensible. It is even more egregious when one notes that it is being financed by the American people—many of whom may wind up losing their jobs and their livelihood if Joel Klein and his staff have their way.

Here is the evidence my colleagues have compiled to date:

Joel Klein visited Japan to meet with the Japanese Fair Trade Commission just last December. A month later, the Trade Commission raided Microsoft's Tokyo offices, confiscating thousands of company documents.

When Russell Pittman went to Brazil in May, he spoke publicly to senior Brazilian government officials responsible for antitrust enforcement in that country, outlining the Justice Department's case against Microsoft in detail. Nine days later, the Brazilian government announced its intention to begin legal proceedings against the company. It seems to me that this event is particularly troubling, and, I might add, somewhat ironic. He accused Microsoft of behaving "like an arrogant monopolist, even acting arrogantly in its relations with the antitrust authorities." That is exactly what I would expect from these agencies whom it deserves. Who is calling whom arrogant? A government bureaucrat on a taxpayer funded jaunt to Brazil? If the situation were not so serious, I would find this quote to be quite amusing, Mr. President.

In Israel in May, Dan Rubinfeld gave a public speech on the Department's case against Microsoft to an audience that included Israeli officials responsible for antitrust enforcement. He later met privately along with his sidekicks from the Federal Trade Commission with a group of Israeli government officials to outline the DOJ's complaint against Microsoft.

Not surprisingly, the Israeli government is now in discussions with Microsoft concerning its business practices in that country.

And finally, on June 8th, Douglas Melamed briefed the OECD's Competition Law and Policy Committee in Paris. According to the letter, the Department's case against Microsoft, the OECD Committee includes officials from Europe, Japan, Canada, and Brazil.

I applaud Senators Sessions, Abraham, and Kyl for bringing this issue to light, Mr. President. It is just one in a series of steps by the Administration to tie the hands of successful U.S. companies.

Thousands of jobs in my home state of Washington are being put on the line by the Department's actions.

But there is a faint one, by Microsoft, on the Department's Antitrust Division's ongoing efforts to investigate potential violations of U.S. antitrust laws. When I first heard about this legislation, I was puzzled that there is no other way to hold them to their contracts to lobbying and Washington lawyers could come up with.

I suspect Microsoft is really more interested in enforcing foreign governments to engage in antitrust against U.S. companies defending themselves against anti-trust suits filed by the U.S. government here at home. My amendment is now in scope. It was carefully drafted to ensure that it is not overreaching.

It will simply ensure that Joel Klein and his staff at the Antitrust Division do not travel abroad at the expense of U.S. taxpayers to bring anti-trust suits, by encouraging foreign governments to attack successful U.S. businesses.

I assure my colleagues that I am very disappointed that this amendment is necessary at all. That U.S. government officials in this Administration are engaged in practices that serve no other purpose than to harm U.S. companies, their employees, their families of their employees, and the small businesses whose livelihoods depend on the success of those companies is truly disheartening.

I urge my colleagues to join me in condemning the actions of Antitrust Division officials and to pass this important amendment today. Attorney General Janet Reno and Assistant Attorney General Douglas Melamed need to know their actions will not go unnoticed and that they cannot continue down their current path of denouncing U.S. businesses overseas.

Mr. HATCH. Mr. President, at the outset, let me say that I don't support the Department of Justice divulging confidential information to foreign governments in an attempt to encourage them, in any way, to take or threaten legal action against any U.S. company. I don't think the Department has done that. They assure me that they have not done that.

I am aware of the letter that was sent to the Department inquiring whether the Department has encouraged any foreign antitrust authority to take action against Microsoft. I await the Department's formal response to the letter sent by my colleagues. If—and I emphasize if—the Department of Justice was encouraging foreign countries to bring a cause of action against Microsoft—or any other American company—I would do all I can to put a stop to it. The Department of Justice has a responsibility to enforce U.S. antitrust laws—not Japan's, Brazil's or the European Union's. But having said that, the Department assures me they have done no such thing.

I have to say, though, that, if Microsoft's charges prove groundless, one could reasonably conclude that this appears to be an assault, albeit a faint one, by Microsoft, on the Department of Justice's ongoing efforts to investigate potential violations of U.S. antitrust laws. When I first heard about this legislation, I was puzzled that there is no other way to hold them to their contracts to lobbying and Washington lawyers could come up with.

I was expecting a much more innovative strategy, given the reported offensive
Microsoft has threatened to launch an antitrust against the Department of Justice. As I said before, I too oppose efforts by our government to encourage or solicit any foreign government to take hostile actions against a U.S. company.

However, a concern that any such amendment not hinder the ability of the Antitrust Division to investigate violations of our—United States’—antitrust laws. And also it does not prohibit mutual assistance that the Department and its foreign counterparts provide to one another under a ratified treaty or as authorized by the International Antitrust Enforcement Assistance Act of 1994.

Mr. President, I want to thank Senator Gorton and his staff for their cooperation and willingness to work with me and ensure that the amendment does not have any such adverse impact. With this modification, I am happy to lend my support to this amendment.

The International Antitrust Enforcement Assistance Act passed the Senate unanimously in 1994. Let me also say that my friend and colleague, Senator Gorton, did not object to it then. This statute provides the important authority for the Attorney General when a mutual agreement is in place, to cooperate with foreign agencies in assisting each other’s efforts to prevent illegal antitrust activities. Given the increasingly international scope of the antitrust laws, it is crucial that the enforcement agencies have sufficient legal authority and the necessary tools to obtain information located abroad that would help them protect American consumers and businesses from antitrust abuses.

Finally, I again want to thank Senator Gorton for his cooperation and willingness to work with me and I am happy that we were able to work out our concerns with this amendment.

AMENDMENT NO. 3297
(Purpose: To exempt orphans adopted by United States citizens from grounds of removal)

At the appropriate place in the bill insert the following:

SEC. . PROTECTION OF PERSONAL AND FINANCIAL INFORMATION OF CORRECTIONS OFFICERS.

Section 237 of the Immigration and Nationality Act (8 U.S.C. 1227) is amended by adding after the following new subsection:

``(d) This section shall not apply to any alien who was issued a visa or otherwise acquired the status of an alien lawfully admitted to the United States for permanent residence under section 211(b)(2)(A)(i) as an orphan or otherwise acquires the status of an alien lawfully admitted to the United States for any reason other than the status of an alien lawfully admitted to the United States for permanent residence."

Mr. President, I rise to commend my colleagues for including an extension of Temporary Protected Status for Liberians until September 30, 1999 in the Fiscal Year 1999 Commerce, Justice, State Appropriations bill.

The histories of Liberia and the United States have been intertwined since 1847 when our nation’s founding fathers helped freed American slaves and found the state of Liberia. The first Liberians adopted the U.S. Constitution as a model and named the capital of the new country Monrovia, after President James Madison. Diplomatic, military and trade relations flourished between the two countries until the late 1980’s.

Then, in December 1989, Liberia was engulfed by a civil war that would last for seven years and continue to boil below the surface. Over 150,000 people died and more than one-half of the population fled the country or was internally displaced. During the conflict, food production was halted and the country’s infrastructure was destroyed.

Several thousand Liberians who were forced from their homes because of the civil war sought refuge in the United States. In 1991, the Attorney General determined that Liberia was experiencing an ongoing armed conflict which prevented Liberians from safely returning home. She granted Liberians who were present in the United States on March 27, 1993 temporary protected status (TPS), which provides temporary relief from deportation. Because the conflict in Liberia continued to rage, the Attorney General extended TPS each year for the next six years. Furthermore, conditions in Liberia deteriorated to such an extent in 1996 that the Attorney General “redesignated” TPS for Liberians who arrived after March 27, 1991 but were living in the United States on June 1, 1996. Never before in history had the Attorney General been compelled to redesignate TPS.

Recently, however, the Attorney General declared that TPS would end for all Liberians on September 28, 1998. It is true that on July 19, 1997, Liberians elected former warlord Charles Taylor president. Nevertheless, theoncial observers deemed the election free and fair. It is also true that this new government has pledged to rebuild the economy and reconcile the ethnic factions.

However, there are signs which indicate that Liberia is not as safe and stable as many would like to believe. In early December 1997, a prominent opposition leader was assassinated. Furthermore, a newspaper and two radio stations were temporarily shut down by the government. A pastor in my home state of Rhode Island had a conversation just yesterday with an individual who just returned from Liberia who stated that people in Liberia are afraid to criticize the government in any way. The secret police sweep neighborhoods at night, people disappear and bodies mingle with garbage under a bridge in Monrovia.

I would also like to relay the comments of Bishop Arthur Kulah to my colleagues who may wish to know why TPS is still needed. Bishop Kulah is a United Methodist leader who lost his parents and two brothers in the civil war. He recently spoke with Liberians living in Rhode Island and when they asked if it would be safe to return when TPS was terminated, he replied, “People who have been through ten years will not suddenly change. It may be quiet and then flare up overnight. The disarmament was not complete. People still have guns.”

This weekend the Liberian community in Rhode Island will celebrate the 151st anniversary of Liberia’s independence. They will celebrate the history and culture of their country and look forward to the day when they can safely go home. But that time is not now, Mr. President. They came to this country seeking peace and security. We have an obligation to offer them refuge until it is truly safe to go back.
AMENDMENT NO. 3030
(Purpose: To provide for the adjustment of status of certain asylees in Guam)
At the appropriate place in the bill, insert the following:

SEC. 208. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.
(a) Adjustment of Status
(1) Exemption from numerical limitations
The numerical limitation set forth in section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) shall not apply to any alien described in subsection (b).

(b) Limitation on fees.
(A) In general.—Any alien described in subsection (b) who applies for adjustment of status shall be required to pay an initial fee of $9,000,000 to the Department of the Treasury. The net proceeds of such fee shall be deposited to the credit of the Department of Commerce. Any amount appropriated, not to exceed $3,000,000, with the amount of such reduction shall be transferred to the International Emergency Economic Powers Act.

(b) Covered aliens. An alien described in subsection (b) is an alien who was a United States citizen at the time of his admission to the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

AMENDMENT NO. 3002
(Purpose: To focus resources of the Department of Justice on prosecuting violations of federal gun laws)
On page 9, beginning on line 15, strike "Attorneys." and insert the following: "Attorneys: Provided further, That of the total amount appropriated, not to exceed $3,000,000 shall remain available for the purpose of carrying out the provisions of this subsection which may be similar, or of any other joint resolution introduced in the Senate by the Majority Leader of the Senate, or by Members of the Senate designated by the Majority Leader of the Senate."

(b) Exemption from numerical limitations
The numerical limitation set forth in section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) shall not apply to any alien described in subsection (b) who applies for adjustment of status in excess of the fee imposed on a refugee admitted under section 207(a) of that Act for employment authorization or for adjustment of status to that of an alien lawfully admitted for permanent residence under subparagraph (A) of that section and who was granted asylum in the United States Government employee, employee of a multinational organization based in the United States, or other Iraqi national who was moved to Guam by the United States Government employee, employee of a multinational organization based in the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

AMENDMENT NO. 3003
(Purpose: To provide for the adjustment of status of certain asylees in Guam)
On page 72, between lines 16 and 17, insert the following:

SEC. 208. ADJUSTMENT OF STATUS OF CERTAIN ASYLEES IN GUAM.
(a) Adjustment of Status
(1) Exemption from numerical limitations
The numerical limitation set forth in section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158(b)) shall not apply to any alien described in subsection (b).

(b) Limitation on fees.
(A) In general.—Any alien described in subsection (b) who applies for adjustment of status shall be required to pay an initial fee of $9,000,000 to the Department of the Treasury. The net proceeds of such fee shall be deposited to the credit of the Department of Commerce. Any amount appropriated, not to exceed $3,000,000, with the amount of such reduction shall be transferred to the International Emergency Economic Powers Act.

(b) Covered aliens. An alien described in subsection (b) is an alien who was a United States citizen at the time of his admission to the United States under section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)).

AMENDMENT NO. 3004
(Purpose: To amend the International Emergency Economic Powers Act to clarify the conditions under which export controls may be imposed on agricultural products)
At the appropriate place, insert the following new section:

SEC. 208. AGRICULTURAL EXPORT CONTROLS.

(b) in redesignating section 208 as section 209, and

(2) by inserting after section 207 the following new section:

SEC. 208. AGRICULTURAL CONTROLS.
(p) In general.—
(1) Report to Congress.—If the President imposes agricultural commodity controls in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect.

(2) Compliance with requirement.—If Congress, within 60 days after the date of its receipt of the report, adopts a joint resolution pursuant to subsection (b), approving the imposition of export controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of its receipt of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

(3) Application of paragraph (1).—The provisions of paragraph (1) and subsection (b) shall not apply to export controls—

(a) which were in effect on the date of this Act; or

(b) which were imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

SEC. 209. joint resolution.—
(1) In general.—For purposes of this subsection, the term ‘joint resolution’ means only a joint resolution the matter after the resolving clause of which is as follows: ‘That, pursuant to section 208 of the International Emergency Economic Powers Act, the President may impose export controls as specified in the report submitted on’, with the blank space being filled with the appropriate date.

(2) introduction.—On the day on which a joint resolution is submitted to the House of Representatives and the Senate under subsection (a), a joint resolution with respect to the export controls specified in such report shall be introduced (by request) in the House of Representatives by the chairman of the Committee on Foreign Relations, and in the Senate by the Majority Leader of the Senate, or by Members of the Senate designated by the Majority Leader of the Senate. If either House is not in session on the date of its receipt of such a report, the joint resolution shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session.

(3) referral.—All joint resolutions introduced in the House of Representatives and in the Senate shall be referred to the appropriate committee.

(4) discharge of committee.—If the committee of either House to which a joint resolution has been referred has not reported the joint resolution at the end of 30 days after its referral, the committee shall be discharged from further consideration of the joint resolution or of any other joint resolution introduced with respect to the same matter.

(5) consideration in Senate and House of Representatives.—A joint resolution under this subsection shall be considered in the Senate in accordance with the provisions of section 601(b)(4) of the International Security Assistance and Arms Export Control Act of 1976. For the purpose of expediting the consideration and passage of joint resolutions reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Speaker of the House of Representatives to present for consideration a resolution of the House of Representatives providing procedures for the immediate consideration and passage of joint resolutions under this subsection which may be similar, if applicable, to the procedures set forth in section 602(b)(4) of the International Security Assistance and Arms Export Control Act of 1976.

(6) passage by 1 house.—In the case of a joint resolution described in paragraph (1), if the passage of 1 House of the joint resolution of that House, that House receives a resolution with respect to the same matter from the other House, then—

(a) if the passage in that House shall be the same as if no joint resolution had been received from the other House; but

(b) if the vote on final passage shall be on the joint resolution of the other House.

(7) computation of time.—In the computation of the period of 60 days referred to in subsection (a) and the period of 30 days referred to in paragraph (4) of subsection (b), there shall be excluded the days on which either House of Congress was adjourned because of an adjournment of more than 3 days to a day certain or because of an adjournment of Congress sine die.".
I am very concerned about language in the Administration's budget calling for a four-year phase-out of SIP, beginning in FY99. These payments are used to help students at state maritime schools defray the cost of their education. In exchange for an annual stipend while they are in school, these students incur a 6-year obligation in the Navy and Merchant Marine Reserve. They have been an important element of the Navy's professional mariners and a cadre of trained professionals available for the event of a national emergency when activation of the Reserve Fleet is required.

I commend the subcommittee for sharing my concern. The subcommittee report reflects this concern by calling upon MARAD to report to the Senate on the willingness of the Navy to pay for the program. However, I understand that discussions between the Senate and MARAD are still ongoing which, while encouraging, may mean that the incoming class at state maritime academies may not be able to take advantage of SIP as their classmates ahead of them have, and those behind them hopefully will. If we are going to ensure continuity, we have to fund SIP for another year in this bill.

This provision restores SIP funding in the FY99 budget, preserving the program. I hope that the Navy and MARAD are still on-going which, while encouraging, may mean that the incoming class at state maritime academies may not be able to take advantage of SIP as their classmates ahead of them have, and those behind them hopefully will. If we are going to ensure continuity, we have to fund SIP for another year in this bill.

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of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that renewal of the license would be in the public interest, convenience, and necessity, and would not be served by the renewal of a license, the Commission shall, within 30 days of the date on which the decision is made, the amended license becomes final, provide for the filing of applications for licenses for FM translator service to replace the FM translator service covered by the license.

AMENDMENT NO. 3306

(Purpose: To provide for a study of sediment control at Grand Marais, Michigan)

At the appropriate place in title II, insert the following:

SEC. 2. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for purposes of research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

AMENDMENT NO. 3309

(Purpose: To establish certain limitations with respect to build-out and moving costs of the Patent and Trademark Office)

On page 247, line 8, strike "That if the standard build-out" and all that follows through "covered by those costs:" and insert the following: "That the standard build-out costs of the Patent and Trademark Office shall not exceed $36.9 per occupiable square foot for office-type space (which constitutes the amount specified in the Advanced Program of the General Services Administration) and shall not exceed an aggregate amount equal to $85,000,000: Provided further, That the moving costs of the Patent and Trademark Office (which shall include the costs of moving furniture, telephone, and data installation) shall not exceed $12,500,000: Provided further, That the portion of the moving costs referred to in the preceding proviso that may be used for alterations that are above standard costs may not exceed $29,000,000:.

(Purpose: To require that reports submitted to the Committee on Appropriations concerning matters within the jurisdiction of the Committee on the Judiciary also be submitted to the Committee on the Judiciary)

On page 51, line 9, add a new section 121:

"Sec. 121. For fiscal year 1999 and thereafter, for any report which is required or authorized by this act to be submitted or delivered to the Committee on Appropriations of the Senate or of the House of Representatives by the Department of Justice or any component, agency, or bureau thereof, or which concerns matters within the jurisdiction of the Committee on the Judiciary of the Senate or of the House of Representatives, a copy of such report shall be submitted to the Committees on the Judiciary of the Senate and of the House of Representatives concurrently. The report is subject to the Committee on Appropriations of the Senate or of the House of Representatives.

AMENDMENT NO. 313

(Purpose: To amend the Immigration and Nationality Act, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal, and for other purposes)

At the end of the bill, add the following:

TITLE — WAVA RESTORATION ACT

SEC. 01. SHORT TITLE.

This title may be cited as the "WAVA Restoration Act".

SEC. 02. REMOVING BARRIERS TO ADJUSTMENT OF STATUS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended—

(1) in subsection (a)(6)(A), by inserting "or (A)" after "and;

(2) in subsection (a)(6)(B), by inserting "or (B)" after "and;

(b) DEPORTATION PROCEEDINGS.—For purposes of subsection (b)(2), the services of the Attorney General and the U.S. Immigration and Naturalization Service shall not be served by the renewal of a license.

(c) Aliens whose removal is canceled under subsection (b)(2).—(1) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of section 304 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 597).

(2) MODIFICATION OF CERTAIN TRANSITION RULES FOR BATTERED SPOUSE OR CHILD.—(I) IN GENERAL.—Subparagraph (C) of section 303(c)(5) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(1) by amending the subparagraph heading to read as follows:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.;" and

(2) in clause (i)—

(i) by striking "or" at the end of subclause (IV); and

(ii) by striking the period at the end of subclause (V) and inserting "; or"; and

(iii) by adding at the end the following:

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings prior to April 1, 1997, and who applied for suspension of deportation under section 240 of the Immigration and Nationality Act (as in effect before the date of the enactment of this Act).;"

(II) EFFECTIVE DATE.—The amendments made by paragraph (I) shall take effect as if included in the enactment of section 309 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1101 note).

SEC. 04. ELIMINATING TIME LIMITATIONS ON MOTIONS TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REMOVAL PROCEEDINGS.—

(I) IN GENERAL.—Section 240c(b)(6)(C) of the Immigration and Nationality Act (8 U.S.C. 1229c(b)(6)(C)) is amended by adding at the end the following:

"(IV) SPECIAL RULE FOR BATTERED SPOUSES AND CHILDREN.—There is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion is to apply for adjustment of status based on a petition filed under section 245, or a motion to reopen is accompanied by a motion to change status."
Immigration and Naturalization Service upon the granting of the motion to reopen.

(2) APPLICABILITY.—Paragraph (1) shall apply to motions filed by aliens who—

(A) apply to deportation proceedings under the Immigration and Nationality Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)); and

(B) have become eligible to apply for relief under clause (iii) or (iv) of section 204(a)(1)(B) of such Act, or section 244(a)(3) of such Act (as in effect before the title III-A effective date in section 309 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note)) as a result of the amendments made by—

(i) subtitle G of title IV of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322; 108 Stat. 1953 et seq.); or

(ii) section 103 of this title.

AMENDMENT NO. 3312

(Purpose: To amend the Violence Against Women Act of 1994 to ensure greater protection of elderly women)

On page 1, after line 4 , insert the following:

SEC. 1. In General.—Part T of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 201 (42 U.S.C. 3796g)—

(A) in paragraph (a)—

(i) by inserting `, including older women' after `combat violent crimes against women'; and

(ii) by inserting `, including older women' after the period; and

(B) in paragraph (b)—

(i) in the matter before subparagraph (A), by inserting `, including older women' after `against women'; and

(ii) in paragraph (b), by striking `and' after the semicolon;

(iii) in paragraph (c), by striking the period and inserting `; and'; and

(iv) by adding at the end the following:

`(8) developing, through the oversight of the State, Tribal, and local courts in recognizing, addressing, and prosecuting instances involving elder domestic abuse, including domestic violence and sexual assault against older individuals.''

(2) in section 202 (42 U.S.C. 3796g-1), by inserting `and `elder domestic abuse' after `victim services programs' and

(3) in section 203 (42 U.S.C. 3796g-2)—

(A) in paragraph (a), by striking `and' after the semicolon;

(B) in paragraph (b), by striking the period and inserting `; and'; and

(C) by adding at the end the following:

`(9) the term `elder' has the same meaning as the term `elder individual' in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002); and

`(10) the term `domestic abuse' means an act or threat of violence, not including an act of self-defense, committed by—

`(A) a current or former spouse of the victim;

`(B) a person related by blood or marriage to the victim;

`(C) a person who is cohabitating with or has cohabitated with the victim;

`(D) a person with whom the victim shares a child in common;

`(E) a person who is or has been in the social relationship of a romantic or intimate nature with the victim; and

`(F) a person similarly situated to a spouse of the victim, or by any other person; if the domestic or family violence laws of the jurisdiction of the victim provide for legal protection of the victim from the person.''

EFFECTIVE DATE.—The amendments made by this section shall apply to grants beginning with fiscal year 1999.

Mr. DURBIN. Mr. President, I rise today to introduce this amendment with my distinguished colleagues Senator BIDEN, Senator COLENS, Senator EFORDS, Senator HARKIN, Senator CLELAND, and Senator GRAHAM.

Unfortunately for some, domestic violence is a life long experience. Those who perpetrate violence against their family members do not desist because the family member grows older. In fact, in some cases, the abuse may become more severe as the victim ages becoming more isolated from the community with their removal from the workforce. Other age-related factors such as increased frailty may increase a victim’s vulnerability. It also is true that older victims’ ability to report abuse is frequently confined by their reliance on their abuser for care or housing.

Every seven minutes in Illinois, there is an incidence of elder abuse. Several research studies have shown that elder abuse is the most under reported familial crime. It is even more under reported than child abuse with only between one in eight and one in fourteen incidents reported to be reported.

Seniors who experience abuse worry they will be banished to a nursing home if they report abuse. They also must struggle with the ethical dilemma of reporting abuse by their children to the authorities and thus increasing their child’s likelihood of going to jail. Shame and fear gam them so that they remain “silent victims.”

The Commerce-Justice-State Appropriations bill funds the STOP law enforcement program. This program provides funding for services and training for officers and prosecutors for dealing with domestic violence. This training needs to be sensitive to the needs of all victims, young and old. However, the images portrayed in the media of the victims of domestic violence generally depict a young woman, with small children. Consequently, many people including law enforcement officers may not readily identify older victims as suffering domestic violence. Older victims may also be reluctant to report such abuse. Many older women were raised to believe that family business is a private matter. Problems of elder domestic abuse in all its many ugly manifestations, is likely to grow. I believe that we need to take a comprehensive look at our existing family violence programs and ensure that these programs serve seniors and are sensitive and knowledgeable of elder domestic abuse.

I am pleased to be joined by Senators REID, HARKIN, CLELAND, MIKULSKI, GRAHAM, EFORDS, and COLINS in offering this amendment which focuses attention on the needs of the “forgotten” older victims of domestic violence.

Mr. BIDEN. Mr. President, the Violence Against Women Act of 1994 included vital provisions to protect immigrant women—so they wouldn’t have to choose to stay in an abusive marriage or be deported from America.

This has helped a relatively small number of battered women—a few thousand each year—but it was important that we—on a bipartisan basis—took this moral step.

Since 1994, we have found other ways in which we in effect force women to remain in abusive marriages and rely on their abusive husbands for their immigration status.

This amendment restores the protections of the original Violence Against Women Act in four key ways:

By ensuring that battered women are included in the narrow immigration provision already included in this bill.

By preventing the roughly 1500 women per year who complete the full process of proving that they are in fact battered from being deported solely because of some arbitrary limits.

By allowing the Immigration and Naturalization Service to permit a battered woman to remain in the U.S. even though she has left the country for a brief period—provided that she has an understandable reason (such as
in the case of a woman who was literally taken to Mexico against her will).

And by requiring the Immigration and Naturalization Service to give a battered woman an opportunity to prove that she was battered, we are giving her the right to sue for divorce. It is the proven fact that an equitable share of wealth is a problem that has been brought to the attention of the Senate by Senator Kennedy, and that has been the subject of a study by the Department of Justice. The Senate has passed a resolution condemning the practice of giving a battered woman an opportunity to prove that she was battered, and it has been sent to the President.

This is an important amendment—even though it will affect a modest number of battered women. I am pleased that this amendment is cosponsored by Senators Abraham, Kennedy, Leary, Wellstone and others. I am also pleased that this amendment has been accepted and will be adopted by the full Senate unanimously.

Ms. COLLINS. Mr. President, I rise today to support the amendment introduced by my distinguished colleagues from Illinois, Senator Durbin, to strengthen the capability of our law enforcement community to protect older Americans from violence.

There is no conduct less consistent with the precepts of a civilized society than the physical abuse of those unable to defend themselves. Our recognition of this has led to an aggressive and ongoing struggle against child abuse, and it must lead to an equally strong response to domestic violence directed at older Americans.

Mr. President, at a 1995 hearing in Portland, Oregon, chaired by my predecessor, Senator Cohen, elder abuse was aptly described as "society's secret shame." Family violence, particularly when directed at the elderly, was a major concern of Senator Cohen, and I welcome the opportunity to continue his efforts to combat this intolerable mistreatment of older Americans.

Mr. President, earlier this year my home state released its crime statistics for 1997. I was cheered by the wonderful news that crime fell by 8.7% from 1996, to the lowest level in at least 20 years. Hidden behind this positive statistic, however, was one that was very disquieting, namely, that domestic violence increased by 7.8%. Ironically, at the same time as we are becoming less likely to be harmed by strangers, many of our neighbors face an increasing threat from members of their own households.

National data demonstrate that cases of domestic elder abuse, which includes neglect as well as physical abuse, are steadily increasing. From 1986 to 1996, the number of cases went from 117,000 to 293,000, an increase of 150%. Furthermore, there is widespread agreement that this type of abuse is greatly underreported. For example, although the number of reported cases in 1994 was 241,000, the National Center on Elder Abuse estimates that the true number of cases was 818,000.

Mr. President, while these numbers indicate a growing problem, all of the statistics in the world do not describe the problem as eloquently as the words of a single victim. At the Maine hearing, one such victim told what happened to her at the hands of her husband after her children left home.

'Things got really bad. I had two broken wrists, cracked ribs, held down with his knee on my chest with a knife at my throat. I was made to crawl across the floor with a gun resting on my head, ready to fire. I've been choked until I was limp, and then he would drop me on the floor with a kick. I've been thrown through a window, dragged into the lake as he said he was going to drown me. Astonishingly, but not atypically, the witness was married to her husband for 44 years.'

Mr. President, this type of treatment cannot be tolerated. As a cosponsor of the Durbin amendment, I sincerely hope that my colleagues will take this modest step to enhance the ability of the law enforcement community to protect this vulnerable segment of our society.

AMENDMENT NO. 313

(Purpose: To modify the membership of the Federal-State Joint Board on universal service)

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a) IN GENERAL.—Section 254(a) of the Communications Act of 1934 (47 U.S.C. 254(a)) is amended—

(1) by striking the second sentence in paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) MEMBERSHIP OF JOINT BOARD.—

''(A) IN GENERAL.—The Joint Board required by paragraph (1) shall be composed of 9 members, as follows:

1 shall be a member of the Federal Communications Commission;

1 shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates; and

5 shall be State utility commissioners nominated by the national organization of State utility commissions with at least 2 such commissioners being commissioners of rural States.

(B) CO-CHAIRMEN.—The Joint Board shall have 2 co-chairmen of equal authority, one of whom shall be a member of the Federal Communications Commission, and the other of whom shall be one of the members described in subparagraph (A)(iii). The Federal Communications Commission shall adopt rules and procedures under which the co-chairmen of the Joint Board will have equal authority and equal responsibility for the Joint Board.

(C) RURAL STATE DEFINED.—In this paragraph, the term 'rural State' means any State in which the 1998 high-cost universal service support payments to local telephone companies exceeds 90 cents on a per loop per month basis.''

(b) FCC TO ADOPT PROCEDURES PROMPTLY.—The Federal Communications Commission shall adopt rules under section 254(a)(2)(B) of the Communications Act of 1934 (47 U.S.C. 254(a)(2)(B)), as added by subsection (a) of this section, within 30 days after the date of enactment of this Act.

resources through the preparation of specialty area management plans to protect natural resources while providing for coastal dependent economic growth. Section 6217 of the 1990 Coastal Zone Reauthorization Amendments requires states and territories with approved coastal zone management programs to develop and implement coastal nonpoint pollution plans. Through prior federal assistance, 29 plans (see attachment) have been conditionally approved and are ready for implementation. In addition, Texas, Georgia, and Ohio, recently entered the CZM program and will also be working to develop nonpoint runoff plans. The premise behind this amendment is simple: the federal government must continue to support those who have developed nonpoint pollution plans and are now ready to implement them. These funds are an investment in our future, an investment that will pay dividends not just for our towns and states, but for the entire country and for generations to come.

I ask unanimous consent that the list of states with approved plans be entered into the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

**STATES AND TERRITORIES WITH APPROVED COASTAL NONPOINT POLLUTION PLANS**

- Alabama
- Alaska
- American Samoa
- California
- Connecticut
- Delaware
- Florida
- Guam
- Hawaii
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan
- Mississippi
- New Hampshire
- New Jersey
- New York
- North Carolina
- Northern Mariana Islands
- Oregon
- Pennsylvania
- Puerto Rico
- Rhode Island
- South Carolina
- Virgin Islands
- Virginia
- Washington
- Wisconsin

**AMENDMENT NO. 3315**

On page 34, line 20, insert the following:

**Strike** "$65,960,000" **and insert** "$66,960,000".

On page 34, line 19, insert the following:

**Strike** "$119,960,000" **and insert** "$120,960,000".

**AMENDMENT NO. 3326**

(Purpose: To provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children, and for other purposes.)

At the appropriate place, insert the following:

**SEC. 12. CHILD EXPLOITATION SENTENCING ENHANCEMENT.**

(a) DEFINITIONS. In this section:

(1) CHILD; CHILDREN. The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR. The term "minor" means any individual who has not attained the age of 18, except that, with respect to offenses referred to in section 2241 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD. Pursuant to the author-
AMENDMENT NO. 3320
At the appropriate place in Title IV, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this Act may be used to provide access to the International Criminal Court described in this section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

(b) None of the funds appropriated or otherwise made available by this Act may be used to provide consent to the extradition or transfer of a United States citizen to a foreign nation that is under an obligation to surrender persons to the International Criminal Court unless that foreign nation confirms to the President that applicable prohibitions on extradition apply to such surrender, or gives other satisfactory assurances to the United States that it will not extradite or otherwise transfer that citizen to the International Criminal Court.

(c) Definition.—As used in this section, the term "International Criminal Court" means the court established by an agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321
(Purpose: To prohibit the availability of funds for the International Criminal Court unless the agreement is ratified by the United States)

On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessment or services, equipment, personnel, or other support to the International Criminal Court established by an agreement concluded in Rome on July 17, 1998; or

(2) the United States proportionate share of any assessed contribution to the United Nations or any other international organization.

AMENDMENT NO. 3319
(Purpose: To require the submission in advance of a certification to Congress before certain funds are disbursed for contributions to the United Nations)

On page 101, between lines 18 and 19, insert the following:

SEC. 407. Before any additional disbursement of funds may be made pursuant to the sixth proviso, submit a certification to the committees described in paragraph (2) that the United Nations has taken no action during the preceding six months to increase funding for the United Nations program without identifying an offsetting decrease during the 6-month period elsewhere in the United Nations budget and cause the United Nations to fund the International Criminal Court at a level of $2,553,000,000 for the biennium 1998-1999;

(2) the certification under paragraph (1) is submitted to the Committees on Appropriations and Foreign Relations of the Senate and the Committees on Appropriations and International Relations of the House of Representatives at least 15 days in advance of any disbursement of funds.
Senator from South Carolina. This bill has been a fairly complicated exercise, but its movement is entirely tied to the fact that the Senator from South Carolina brings to this floor extraordinary expertise and professionalism. It is with him because his knowledge of how to move things around here is second to none and his history as to where some of the issues lie is equally dramatic, and so I greatly appreciate the chance to work with him. I thank him for all of his support and effort. This has been a bill that has moved forward as a result of the strong support of the Senator from South Carolina.

Mr. HOLLINGS. I thank our chairman. Has our managers' amendment been adopted?

Mr. GREGG. Yes.

Mr. HOLLINGS. I move to reconsider the vote.

Mr. GREGG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, the Manager's Amendment includes $800,000 to hire additional assistant U.S. attorneys and investigators in Camden County, New Jersey. This amendment builds on an initiative that was originally proposed by Senator SPECTER. At his request, the bill provides $1.5 million to hire additional assistant U.S. attorneys and investigators in Philadelphia to enforce federal laws designed to keep firearms out of the hands of criminals.

I appreciate Senator SPECTER's effort. I think that additional law enforcement funding will help stop the gun carnage on our streets. My amendment would expand this effort into Camden, which neighbors Philadelphia. I want to ensure that the crackdown in Philadelphia does not simply push gun criminals into Camden. Clearly, a cooperative effort will provide a more comprehensive solution for the entire region.

I want to thank Senator GREGG and Senator HOLLINGS for their help with this amendment.

Mr. MCCONNELL. Mr. President, will the distinguished manager of the bill, Senator GREGG, yield for a colloquy?

Mr. GREGG. I am happy to yield to the Senator from Kentucky for a colloquy.

Mr. MCCONNELL. Mr. President, the Communications Assistance for Law Enforcement Act of 1994 (CALEA) was intended to preserve the ability of law enforcement agencies to conduct court-approved wiretaps on new digital networks. Implementation of this important legislation is currently two-and-one-half years behind schedule because industry and law enforcement have not been able to reach agreement on technical standards required under CALEA. In March of this year, the Department of Justice, the industry, and privacy groups all agreed that the Federal Communications Commission (FCC) should resolve the technical capability standards dispute as envisioned under CALEA. The latest information I have from the FCC is that the Commission does not expect to issue a final electronic surveillance capability standard until late this year.

Questions about how the FCC should make this decision?

Mr. GREGG. I believe that the FCC should move expeditiously to resolve this matter.

Mr. MCCONNELL. After the statutory compliance date—October 25, 1998—telecommunications carriers could be subject to fines of up to $10,000 per day for failure to deploy equipment to meet CALEA compliance standards that currently do not exist and will not exist until late this year.

According to industry sources, telecommunications equipment manufacturers will need approximately two years after the FCC sets a final standard to develop technology to meet the new standard. CALEA authorized the Attorney General to reimburse the industry up to $500 million for the costs directly associated with modifying equipment that was in service before January 1, 1995 (the statutory grandfather date). Since January 1, 1995, a significant portion of all wireline switches, a majority of cellular switches, and virtually all personal communications services devices have been installed.

According to the FCC, that if the FCC sets a new CALEA technical capability standard and there is no change to the January 1, 1995 statutory grandfather date, industry may be required to retrofit that equipment at their own expense at a cost that could exceed hundreds of millions of dollars.

I do not think that the American people want to pay what could be considered an electronic surveillance tax running into the hundreds of millions of dollars. I know that the people in my state of Kentucky do not. I recognize that this is a complicated controversial issue, but I believe that Congress must act this year to adjust both the statutory compliance and grandfather dates contained in CALEA to allow the statute to work and avoid the prospect of an electronic surveillance tax on consumers.

I would like to work with the Chairmen and the distinguished Ranking Members, Mr. HOLLINGS of South Carolina, to see if together, we can find a way to address this problem this year.

Mr. GREGG. I would be happy to work with the distinguished Senator and Senator HOLLINGS, the ranking member of the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies on this issue.

Mr. MCCONNELL. I thank the Chairman, and I yield the floor.

REPEAL OF SECTION 1201 IN CS APPROPRIATIONS

Mrs. MURRAY. Mr. President, I arise in strong support of the Commerce, State, Justice Appropriations measure.

As a member of the Appropriations Committee, I can speak to the importance of this legislation and I commend Senator GREGG and Senator HOLLINGS for putting this bipartisan product together.

Section 110 requires the Immigration and Naturalization Service to develop an automated entry and exit system for the purpose of tracking the entry and departure of “every alien” entering and leaving the United States. It was not until after Section 110 became law that Congress became aware of the full impact of this new language. As Senator SPECTER recently wrote, Section 110 will have disastrous consequences for U.S. border communities whose economies are dependent on border travel, trade and tourism. For example, more than $1 billion dollars in economic activity is generated each day by legal crossings at the border between the United States and Canada. More than 116 million people legally crossed the border from Canada in 1996. This travel and economic activity will be discouraged to the detriment of U.S. interests if we impose new restrictions and create additional bureaucratic delays along our shared borders.

Section 110 will have dire consequences for my entire state and particularly for the residents of Northwest Washington in Whatcom County. In my state, Section 110 will create an invisible border which is already inadequate and overwhelmed at certain times of the year. The INS does not have the technology, facilities or trained personnel to implement this language. The real explosive issue here is the cost to implement Section 110. The INS is silent on this issue. That is because it will cost billions of dollars to implement the Section 110 time bomb. Let’s be very clear on this point, without changes this provision will cost billions of dollars not anticipated.
by either the Congress or the American people.

Many of my constituents in Whatcom County will view the repeal of Section 110 as the most significant action taken by the Congress this year. Section 110 is the square peg, for a round hole problem. That’s why I’ve been fighting for more than a year to scrap the disastrous language.

Last year, I introduced the first Senate bill on this issue. My bill, S. 1286, the U.S.-Canada Economic Friendship Preservation Act of 1997 seeks to exempt Canadians from Section 110. The effort to fix the Section 110 problem has grown tremendously since the introduction of my bill. Communities across Washington state and virtually the entire Northern Border are working to preserve our close ties with our Canadian neighbors. Governors from Washington state, Michigan, Texas, Arizona and others are supporting the effort. Editorials in the Seattle Times, the San Diego Union Tribune have all criticized Section 110.

I commend my colleagues at the Appropriations Committee for taking this action to repeal Section 110. And I urge my colleagues to give this language strong and bipartisan support.

**NOAA Weather Radio Coverage in South Dakota**

Mr. JOHNSON. Mr. President, I rise today to update the Senate on my efforts to enhance statewide emergency warning systems in South Dakota. The person only has to open up a newspaper or watch the evening news to learn of the latest plight afflicting some region of the country. In recent years, our nation has been continuously ravaged by natural disasters, ranging from mudslides in California, massive flooding in the Midwest, as well as the annual hurricane and tornado seasons. These disasters have resulted in fatalities, enormous property damage, and has raised lingering disputes over emergency communications. This has never been more evident then this year, as our nation continues to feel the effects of the weather anomaly known as El Nino.

Since August 1992, the National Oceanic and Atmospheric Administration (NOAA) has calculated that twenty-one weather-related disasters caused a staggering $90 billion in damages and resulted in over 900 fatalities. South Dakota, which means escaped Mother Nature’s destructive path. Last year, South Dakota was plagued by severe weather conditions, beginning with record snowfalls in January and February, and the worst flooding in the state’s history in April and May. Many residents were displaced from their homes, and the final cost for clean-up and assistance total in the millions of dollars. This has never been different. Heavy rains have once again flooded homes and farmland in the northeast part of the state.

Recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. The Spencer disaster made me realize that additional efforts need to be made in order to provide citizens with the earliest possible warning of imminent danger. In my efforts to find new ways to update South Dakota’s antiquated early warning system, it was brought to my attention that an immediate solution to upgrading the system would be the use of NOAA Weather Radios.

NOAA Weather Radios broadcast National Weather Service (NWS) warnings, hazardous weather information 24 hours a day. These NOAA Weather Radios automatically sound an alarm and turn themselves on when a severe weather warning or emergency information is issued for a specific county. These radios receive a signal that is broadcast from NWS transmitters located throughout the state. Seventy percent of South Dakota’s population currently can receive these NOAA Weather Radio warnings. However, due to the rural nature and distribution of people in South Dakota, there are not enough NWS radio transmitters to provide total NOAA Weather Radio coverage. Many small towns would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the South Dakota NWS to examine ways in which we can increase NOAA Weather Radio coverage so that 95 percent of South Dakota’s population reside within range of a transmitter. I have met with Department of Commerce Under Secretary Dr. James Baker, who also is the Administrator of NOAA, to inquire about the requirements for the purchase of additional transmitters to provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and myself forthwith.

During consideration of the FY 1999 Commerce, Justice, State, and Judiciary Appropriations bill, I have worked with Senator GREGG and Senator HOLLINGS in examining all available options to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95 percent of South Dakota’s population is covered by NOAA Weather Radio.

Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in augmenting South Dakota’s NOAA Weather Radio coverage. Although South Dakota is extremely well-prepared to deal with the impending tornado season, I believe it is the responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I look forward to working with Senator GREGG, Senator HOLLINGS and the conferees to locate funding for additional NOAA Weather radio transmitters for South Dakota, and I appreciate their willingness to work with me on this critically important issue.

Mr. WELLSTONE. Mr. President, I rise to discuss a provision contained in the Commerce/Justice/State Appropriations bill: “Grants to Combat Violent Crime Against Women on Campuses,” which provide $10 million a year to the Department of Justice for dissemination to colleges. I want to thank Senator GREGG, the Chair of the Appropriations Subcommittee on Commerce, Justice, and State, for working with me to ensure that this provision becomes law.

In the 1990s, several high profile violent crimes on campuses raised concern about campus crime and security, resulting in the Student Right-to-Know and Campus Security Act (C.S.A.) in 1990. Though overall crime rates are declining, sexual assaults throughout the United States, including on college campuses, are on the rise. Studies tell us:

Twenty percent of college-aged women will be victims of sexual assault at some point during their college careers.

According to a 1995 study, 82 percent of rapes or sexual assaults in 1992-93 involved a person the victim knew.

Rape remains the most under reported violent crime in America, with approximately 1 in 6 rapes reported to police.

I am very concerned about sexual assault on college campuses. A 1991 survey of more than 6,000 college students...
found that 42 percent of women students reported some form of sexual assault, including forcible sexual contact, attempted rape, and completed rape. This is simply unacceptable and we must do something to turn this around.

We have already taken an important step in addressing violence on campuses. Already included in the Higher Education Act are efforts to strengthen reporting so that we can get more accurate reporting in campus crime. A recent study has been commissioned to look at the policies and procedures regarding sexual assault, and how effective they are.

That's a great start, but it's not enough. It's not enough to simply get better statistics. It's not enough to look at how sexual assaults are dealt with on campuses. We have to go further. We have to combat sexual assault on campuses. We have to end the violence. Even one victim of sexual assault is too many.

A critical component to addressing violence against women on campus is good collaboration among those who work with victims of sexual assault—campus police, local law enforcement, campus administrators, and victim services. We need to improve the coordinated response to violence on campuses. We need consistent enforcement and implementation of policies regarding sexual assault. We need enhanced communications between the campus and local community.

And in turn, this increased communication will result in more accurate statistics. According to a GAO report released last March, one of the reasons we don't have good statistics is that campuses have had trouble deciding how to include crimes reported to campus officials who are not campus police. It's not unusual for crimes on campus to be reported to local police and not reported to campus crime reports. Improving collaboration within and between campus and off-campus agencies will improve the statistics—and therefore give us a more realistic picture of violence on campuses. It will also improve services and care for victims.

The grant program we've created—Grants to Combat Violent Crime Against Women on Campuses—would make $10 million a year available to colleges and universities so that campus personnel and student organizations could work with campus administrators and police. The aim is to improve security and investigation methods to combat violence against women on campus and to improve victim services. These efforts require partnerships with local criminal justice folks and community victim services organizations. Collaborating with community resources is especially critical when campuses have minimal victim support services and students are isolated from community support systems.

Some say, "Why do this federally? Shouldn't schools do this themselves?" But why should we be surprised that schools have yet to properly initiate these collaborations when communities haven't even started. We need to hold the line on violence everywhere, in schools and in communities. And the federal government's involvement involves setting up collaborative programs, and that takes funds. That's what the federal government does when it is functioning best—get the ball rolling.

Campus safety is an educational access issue. Violence on campus is a huge barrier to education for many students who are in fear of being attacked because they feel unprotected on their own campuses. Without adequate prevention and protection services, many students—women in particular—continue to become victims of attacks, while others remain afraid to take night classes or to study late at the library. And victims of sexual assault may choose to leave school because they feel unprotected.

How are college women supposed to focus on their educations when one out of five college women will be a victim of sexual assault? And if it's not them, it's someone they are closest to be their roommates, their classmates, their sorority sisters, or their friends. College is the time when many young women begin to break away from the protection of their families, a time of learning—both in the classroom and out—a time of relatively newfound freedom. But for many young women, it's also a time of trauma, a time of victimization, a time of violence. It's time to make campuses safe.

During the Higher Education Act Markup in the Senate, I reached a public agreement with Senator Gregg to work together to develop a Campus Safety Collaborative Grant Program. On May 6th, Senator Gregg agreed to the language I proposed, creating a $10 million grant program administered by the Department of Justice for collaborative grants to colleges in order to combat violence on campus. Consequently, the Senate Working Group—Senators Jeffords, Kennedy, Coats, and Dodd—adopted the language into the Manager's Substitute of the Higher Education Act. And I am very pleased that Senator Gregg has inserted funding for this program into the Commerce/State/Appropriations Bill.

The Wellstone/Gregg Collaborative Grant Program states: "enough is enough. It's time to end the violence." I thank Senator Gregg for all of his efforts, and I urge my colleagues to support this important provision.

Mr. HARKIN. Mr. President, I understand that the intent of Section 254(h) of the Communications Act of 1934, commonly referred to as the "E-rate" program, is to provide schools, libraries and health care providers with access to advanced telecommunications services. I believe that the Iowa Communications Network (ICN), a state run and owned telecommunications network, as well as similarly situated entities, should be able to fully participate in the E-rate program. If the ICN is denied that opportunity by the Federal Communications Commission (FCC), Iowa schools will be unfairly and improperly placed at a disadvantage.

The FCC has said that an entity must be a common carrier to be a telecommunications carrier. The term is used in Section 254(h) of the Communications Act of 1934, and to receive payments from the universal service fund for providing telecommunications service to schools, libraries and rural health care providers. The Universal Service Administrative Company is treating the ICN as a carrier for purposes of paying into the universal service fund, and ICN is, in fact, paying into the fund. The Iowa Utilities board, the local expert on this issue, has stated that the ICN is not a common carrier under Iowa law, since the ICN serves all of its customers on equal terms and conditions. In light of these facts, does the center believe the ICN and other systems like it should be fully eligible to receive the benefits of the fund, including those available to telecommunications carriers?

Mr. MCCAIN. Given the statement of facts that the Senator has presented, it is my belief that it was clearly my intent and the intent of Congress that a State network organized and operated like the ICN is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934.

In addition to any action taken by the Federal Communications Commission, the Commerce Committee intends to further look into this issue. This program should treat all involved telecommunications carriers as if they are common carriers and not give one a competitive advantage. Together, with the Ranking Member, we will do what is necessary and appropriate to deal with this matter.

Mr. HOLLINGS. I agree with Senator McCain, the Chairman of the Commerce Committee, and Senator Harkin that a State network organized and operated like the Iowa Communications Network is eligible to receive universal service fund support as a provider of telecommunications services under Section 254(h) of the Communications Act of 1934. I will certainly work with Senator McCain and others if this issue arises in the Commerce Committee.

Mr. HARKIN. I appreciate your attention to this important issue.
served the people of Maine—and the rest of New England—well for over 40 years and I am concerned that there may be adverse consequences as the Boston office is uniquely situated in New England to focus on fraud and deceptive practices in coastal areas. Thus, Pfiesteria has great importance to the commercial fishing industry of this country. It is the second largest estuary on the U.S. mainland, and it supplies half of the total area used by fish from Maine to Florida as nursery ground. Recently, Pfiesteria also affected small numbers of fish in the largest estuary on the U.S. mainland, the Chesapeake Bay.

Mr. FAIRCLOTH. I wish to enter into a colloquy with Senator GREGG in order to emphasize the funding needs of North Carolina in regards to Pfiesteria and the expertise available to research this toxic microbe at N.C. State university.

Pfiesteria is a toxic microbe that kills fish, causes widespread fish disease. Its toxins are known to affect many species of commercially important finfish and shellfish.

Pfiesteria is also highly toxic to people—it causes subtle, but serious, impacts on human health. People who are exposed to toxic outbreaks of Pfiesteria, where fish are dead or filled with open bleeding sores from this creature’s toxins, can be seriously hurt as well.

Medical studies have shown that fishermen and other people whom have been exposed to these toxic outbreaks have suffered profound memory loss and learning disabilities for months afterward. Laboratory workers exposed to airborne toxins from Pfiesteria have also exhibited neurobehaviorally lingers for years, suggesting the potential for some long-term, lingering health problems for people in estuaries where toxic outbreaks occur.

Pfiesteria’s toxins are extremely potent—people exposed to these toxins if they have contact with the water, or even if they breathe the air over places where Pfiesteria is attacking fish. These toxins affect the human nervous system. They also strip skin from fish, make deep bleeding sores, and suppress the immune system. Small amounts of the toxins can make fish very sick in three-five seconds and kill them in five minutes.

Pfiesteria was first discovered in 1990 as a major cause of fish kills in the Albemarle—Pamlico Estuary of North Carolina. This estuary is of great importance to the commercial fishing industry of this country. It is the second largest estuary on the U.S. mainland, and it supplies half of the total area used by fish from Maine to Florida as nursery ground. Recently, Pfiesteria also affected small numbers of fish in the largest estuary on the U.S. mainland, the Chesapeake Bay.

Pfiesteria, and its close relatives, have been confirmed in the mid-Atlantic and southeastern U.S. Toxic Pfiesteria and its close relatives are believed to be widely distributed in many warm temperate estuaries and coastal waters of the country and the world.

Pfiesteria thrives in polluted waters where toxic outbreaks occur. Pfiesteria's toxins are extremely potent. People exposed to these toxins if they have contact with the water, or even if they breathe the air over places where Pfiesteria is attacking fish. These toxins affect the human nervous system. They also strip skin from fish, make deep bleeding sores, and suppress the immune system.

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Pfiesteria piscidia, in 1991, she has worked to characterize its complex life cycle and behavior, its stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially important finfish and shellfish in estuaries and aquaculture facilities.

Howard Glasgow is the Director of North Carolina State University Acquatic Botany Laboratories. He obtained a Bachelor of Science degree in Chemistry and a Bachelor of Arts degree in Marine Biology from the University of North Carolina at Wilmington. Mr. Glasgow is now finishing a Ph.D. degree in Marine Sciences from North Carolina State University. Before joining the Aquatic Botany Program at NCSU in 1990 Mr. Glasgow was President and CEO of Glasgow Electronics (North Carolina's 2nd largest electronics servicing and engineering organization) were in 1989 he was nominated as a member of Who's Who in U.S. Executives. His scientific interests include Dr. Burkholder's, and together they have characterized Pfiesteria's life cycle and behavior. Including research describing Pfiesteria's responses to stimulation by nutrient over-enrichment, and its chronic/sublethal as well as lethal impacts on commercially valuable finfish and shellfish, estuaries and aquaculture facilities.

The researchers who discovered it as a major cause of fish kills in estuaries have been working with Pfiesteria at North Carolina State University for the past. Their research laboratory is located in the heart of the area where toxic Pfiesteria outbreaks have been most severe.

The funding would also make it possible for the most experienced researchers to determine the environmental conditions that promote toxic activity by Pfiesteria, so that its toxic production can be significantly reduced, and so that we can develop effective management strategies to discourage Pfiesteria's growth.

This funding would make it possible to achieve rapid progress in identifying the suite of toxins that produced by Pfiesteria, so that improved tools can be developed to diagnose Pfiesteria toxin exposure in people, to ensure that seafood is safe for human consumption, and to develop medicines to reduce the harmful effects of Pfiesteria's toxins in people and help them recover.

Mr. GREGG. I appreciate you bringing this funding issue to my attention, and I will work with you on this matter. I agree with you that scientific talent available at N.C. State University should be funded.

Mr. HOLLINGS. I appreciate the dedication of researchers at the N.C. State University. However, this dedication is not limited to that institution, and we also must recognize the expertise and important contribution of government and academic scientists throughout the Eastern United States in dealing with this problem. For example, researchers at the National Marine Fisheries Service in Charleston are playing a critical role in developing methods for detecting Pfiesteria toxins. The reduction of toxin outbreaks must rely on bringing our combined federal, state and academic resources to bear on the problem in a cooperative and cost effective manner.

JEFFERSON PARISH COMMUNICATIONS SYSTEM

Mr. BREAUX. Mr. President, I would like to engage in a colloquy with Senator GREGG, the distinguished Chairman of the Appropriations Subcommittee on Commerce, Science, and Related agencies, Senator Hollings, the Subcommittee's distinguished Ranking Member, and Senator LANDRIEU, my distinguished colleague from Louisiana, concerning an important public safety matter in Jefferson Parish, Louisiana.

As my colleagues know, the Jefferson Parish Sheriff's Office has gained attention as one of our nation's most innovative and accomplished law enforcement agencies in recent years. Clearly, the Sheriff's Office has been stymied in the past by a grossly inadequate and outdated conventional 450 MHz UHF radio system that has threatened public safety. It simply cannot provide the secure and varied communications capabilities needed by the Jefferson Parish Sheriff's Office in order for it to communicate with various state and federal law enforcement agencies.

To meet its operational needs, the Sheriff's Department purchased the use of a new 800 MHz communications system. This new system will enable the Sheriff's Office to maintain a high and secure level of communication with district personnel and others. Through better communication, each officer can provide his or her reporting areas more effectively. The new system will also enable the Sheriff's Office to successfully communicate with residents and other public safety officials during emergency situations, such as those that have affected the city recently.

I would like to thank the Subcommittee for recognizing the importance of this project and for providing partial funding for this initiative in last year's appropriations bill. Unfortunately, Congress only provided half of what the Sheriff's Office needs to complete the new communications system. Now is the time for Congress to finish its commitment to fund this project.

Ms. LANDRIEU. Mr. President, I would like to join my colleague in thanking the Subcommittee for its action last year in providing funding for this vital initiative. I fully agree with the distinguished Chairman that the completion of the new communications system for the Jefferson Parish Sheriff's Office is a high priority project that deserves funding under the FY 1999 COPS Technology Grant Program.

The Sheriff's Department has committed to at least a 50/50 cost share with the federal government for this initiative which can serve as a national model. Further, the new communications system will help meet a clear public safety need by supporting interoperability and thus enhancing communication between the Jefferson Parish Sheriff's Department and a number of other local and national law enforcement and public safety agencies throughout the region. This interoperability will enhance the Sheriff's Department's effectiveness in combating crime and responding to area-wide public safety emergencies.

I would also like to add that funding is needed in order for the Sheriff's Office to meet FCC requirements and the implementation schedule for this system.

Mr. BREAUX. Given the importance of this project, I hope that the Congress will agree to provide funding for completion of the enhanced radio system for the Jefferson Parish Sheriff's Department.

Ms. LANDRIEU. I join my colleague from Louisiana in urging my distinguished colleagues to work in conference to finish the federal commitment we have made to this much-needed system.

Mr. GREGG. I would like to thank the Senators from Louisiana for understanding that the Subcommittee was unable to accommodate the entire request for funding in last year's appropriations bill. Funding for the completion of the new communications system for the Jefferson Parish Sheriff's Office in Jefferson Parish is a project worthy of attention in conference this year.

Mr. HOLLINGS. The Senators from Louisiana have highlighted an important issue. I agree with the distinguished Chairman that the completion of the communications system for the Jefferson Parish Sheriff's Office is a project that deserves consideration and I will give this matter my attention in conference.

Mr. BREAUX. The support from the distinguished Chairman and Ranking Member of the Subcommittee in this matter is greatly appreciated.
Finally, the data should be accessible to interested private fishery and conservation groups, such as the Rhode Island Shellfishermen's Association, the Ocean State Fisherman's Association and Save the Bay.

Let me also point out what this project is intended for. This initiative is not aimed at giving preference to one group or interest over another in the use of, or issuance of permits in, Narragansett Bay and other marine resources in Rhode Island. Instead, it is simply intended to provide State and Federal authorities with the best possible information to assist them in making the most responsible public policy decisions not just on aquaculture permitting, but also on a variety of matters involving our precious natural resources.

I would ask Chairman Gregg if he concurs that the description I have provided on this funding is the Committee's intent?

Mr. GREGG. Yes, that is correct.

PATHOGEN RESEARCH RELATED TO BALLAST WATER

Mr. KOHL. I would like to thank the Senator from New Hampshire, the Chairman of the Subcommittee on Commerce, Justice, and State Appropriations. Specifically, this language encourages the agency "to conduct research related to the public health risks posed by pathogens released in ballast water discharges in ports around the country.''

As this process moves forward, it is my hope that the conference working on this bill will ultimately support and reiterate the language included in the House Committee report related to pathogen research and the Sea Grant College Program. Specifically, this language encourages the agency "to conduct research related to the public health risks posed by pathogens released in ballast water discharges in ports around the country.''

While we know that pathogens from other regions of the world are sometimes present in the ballast tanks of ships that enter our ports, we have very little information about the public health risks posed by those pathogens. It is important that we improve our state of knowledge in this regard. The Sea Grant College Program and its network of about 300 universities are appropriately positioned to undertake this research. They are in a position, due to their ongoing research on aquatic nuisance species and ballast water, as well as their affiliation with human health experts at their network universities.

Would the Senator from New Hampshire agree that this research on public health risks posed by pathogens in ballast water is important, and efforts should be made through the Sea Grant College Program to undertake such human health risk studies?

Mr. GREGG. I would concur with the Senator from Wisconsin that it is important to improve the state of understanding about the potential health risks of pathogens that enter U.S. waters via ballast water, and that the Sea Grant College Program is an appropriate agency to conduct and facilitate such research.

Mr. KOHL. I appreciate the Senator's comments, and his understanding of these concerns. Will the Senator be willing to support the inclusion of language in the conference report with regard to such research?

Mr. GREGG. While I can make no promises with regard to the final outcome of the conference, I will work with the Senator to address these concerns in the conference report.
and the large geographic areas which law enforcement officers have to patrol. The scope of the methamphetamine problem in this area recently was underscored by the Grand Junction Chief of Police, Gary Konzak. Chief Konzak told me that he 'obsidian—one of the principal areas of life of this city and the safety of its citizens are in peril if significant and organized law enforcement resources are not deployed soon to combat this menace.'

Based on his almost 30 years of law enforcement in Chicago before coming to Colorado, Chief Konzak believes neighborhoods and communities in Western Colorado are vulnerable to degradation similar to what he witnessed when crack cocaine arrived in the Chicago area in the early and mid-1990s.

Mr. President, in Colorado the DEA operates a regional office in Denver and recently established a field office in Glenwood Springs. However, I believe we do much more to assist police chiefs and sheriffs in Mesa County, Montrose County and other counties on the Western Slope.

The bill we are considering today includes an increase in the DEA's budget for the coming fiscal year. The bill also includes $245 million and 100 agents specifically for the Methamphetamine Initiative to target and investigate methamphetamine trafficking and abuse. Chief Konzak and other law enforcement officials throughout the Western Slope believe there is an urgent need for a DEA presence, through a field office or permanently assigned agents. I strongly support their request for assistance from the DEA and ask the Chairman for his support.

Mr. GREGG. I thank the senior Senator from Colorado for raising this important issue and for his work on the Commerce, Justice, and State Appropriations Subcommittee to make DEA funding a high priority. I can appreciate his concern for the tragic ways methamphetamines can ravage communities, and commit to working with him in urging the DEA to establish a field office on the Western Slope of Colorado.

Mr. CAMPBELL. I thank the chairman for his support and look forward to working with him to address the methamphetamine problem on Colorado's Western Slope.

Mr. LAUTENBERG. Mr. President, I rise to confirm my understanding of a provision that will be included in the manager's amendment to the Commerce, Justice, and State Appropriations Bill. I had proposed an amendment that would provide $1 million to equip New Jersey State Police vehicles with video cameras. It is my understanding, and I want to confirm this with Mr. GREGG, the distinguished Floor Manager of this legislation that these funds will be available by reallocating $1 million to the COPS Program. That $1 million would then be directed to the New Jersey State Police for video cameras in its vehicles, in the same manner that COPS Technology Program funds are directed to various programs on page 61 of the Committee Report to this legislation, e.g., $935,000 for the Missoula County, MT, mobile data terminal. May my understanding correct?

Mr. GREGG. Yes.

Mr. LAUTENBERG. I would like to thank the distinguished Chairman of the Appropriations Subcommittee on Commerce, Justice, and State for his help with this matter. I appreciate his cooperation and I commend him for all of his hard work on this legislation. I know that it is difficult to accommodate the various requests from colleagues, and I think he and his excellent staff do it with grace and understanding. I also want to thank Senator HOLLINGS, the Ranking Member on the Subcommittee, it is always a pleasure to work with him and his fine staff.

The video cameras that will be funded under this amendment will help police document evidence which will assist prosecutors and also protect the innocent. With these cameras in place, people who are pulled over will think twice before acting violently toward traffic stops. The cameras will ensure that the troopers are following proper procedures when they make traffic stops.

In my home State of New Jersey, we must find ways to help resolve disputes and ease tensions between the police and the public they are sworn to protect. These cameras are an important step forward.

Again, I thank Senator GREGG and Senator HOLLINGS for their help in securing this critical funding.

Mr. DOMENICI. Mr. President, I rise today to address one of the international organizations funded in the Commerce, Justice, and the Judiciary Appropriations bill that is currently pending. I will speak of the Organization for International Economic and Cooperation, or OECD, as it is known.

Mr. President, we live in an era where the public rightly demands less government and higher quality services. This is an era where government downsizing and reform are expected of not just federal, state, and local governments, but also to international organizations.

One organization that has understood that less is better when it comes to government is OECD. The OECD was founded in 1961 as a successor to the Organization for European Economic Cooperation, which was formed to assist in the reconstruction of Europe after World War II. OECD has played an important role ever since.

As its work offers policy makers important insight on what the United States can do to benefit from globalization and general economic liberalization.

At the same time, the OECD has understood that it, too, has to change. On its own initiative, the OECD has undertaken a significant process of reform, committing to cut its overall spending by ten percent. It is well on its way toward achieving this goal.

The distinguished Chairman of the Commerce, Justice, and State, and the Judiciary Appropriations Subcommittee has put an emphasis on getting all international organizations to cut administrative costs. The pending bill reflects reductions in funding to those organizations that are above ten percent in total administrative costs. Based on the State Department data available to the Subcommittee—a 1997 report which includes data only through 1995—the Subcommitte has reduced funding for the OECD. The OECD has indicated to me that its administrative costs are now only about 12.4 percent of its budget.

I urge the Department of State to provide the Subcommittee with more recent data so that those international organizations that have reduced their overall administrative costs can be appropriately reviewed for FY 1999 funding. For organizations that have pur sued reform, such as the OECD, I hope the Subcommittee will reconsider the Administration's budget request for inclusion in the final bill.

WATERLINE EXTENSION PROJECT

Mr. CLELAND. Mr. President, I wish to first like to thank my distinguished colleagues, the Chairman Senator GREGG and Ranking Member Senator HOLLINGS, for their leadership and superb management of this bill. I would like to take a moment to express my support for a matter of great importance to me, specifically obtaining funding for a Waterline Extension Project in Georgia. The project would involve providing $1,000,000 in Economic Development Administration (EDA) Public Works Title III funds for construction of an extended 16-inch waterline (16,000 L.F.) along Macon Road (U.S. Highway 80) from Muscogee County into Talbot County. I understand that the proposal for this project was submitted to the EDA, but the application was denied. Apparently, the application was rejected because the project did not identify any, or a significant number of, near term new jobs. However, I have been assured that, as the coal industry continues to decline and do not fulfill the new job requirement, the waterline would allow several new industries to locate in the area which will...
more than meet the new job require-
moment. In fact, there have been commit-
ments in writing from three businesses
of their intent to locate in the newly
developed industrial site. Talbot Coun-
ty is one of the most economically de-
pressed regions in the nation. In fact,
1994, Talbot County had approximately
25% of its population living below the
poverty line, ranking near the bottom
of the state. If funded, the waterline
would provide the vital infrastructure
needed to develop the potential indus-
tial sites located in Talbot County and
bring with it much needed opportunities
for employment in well paying jobs. Senator Hollings, I under-
stand that the policy prohibits earmark-
ing EDA funding for individual projects. Is that accurate?
Mr. Hollings. My colleague is cor-
rect.
Mr. Cleland. I thank the Senator.
I understand that although projects are not earmarked, language is provided in
the bill about projects intended to pro-
vide favorable recommendations to the
EDA, if the project meets EDA criteria.
Is my understanding correct?
Mr. Gregg. The Senator from Geor-
gia is correct.
Mr. Cleland. I thank the Senator.
I understand that the EDA has stated a
willingness to meet with County and
City officials to review and reconsider
the proposal at any time. Given the im-
portance of this project and the appar-
ent discrepancy between the informa-
tion officials provided and the informa-
tion cited by EDA in rejecting the
proposal, I urge that the EDA give
prompt consideration of any such re-
quest for a meeting. Further, assuming
that the job-creating potential of the
waterline Extension Project can be
verified, I ask the distinguished Chair-
man and Ranking Member if they
would agree that this is the kind of
project Congress intended for EDA
to give consideration to and that it fits
public works construction program?
Mr. Hollings. The Senator is cor-
rect.
Mr. Gregg. With the information
provided, I believe the Senator's under-
standing is correct.
Mr. Cleland. I, along with resi-
dents of Talbot and Muscogee Counties,
thank my colleagues for their under-
standing and support and believe that
this project would provide a critical
economic boost to this region.

Swordfish Conservation Initiative

Mr. Gregg. I wish to enter into a
colloquy with Senator Faircloth in
order to address his concerns about the
conservation of swordfish.

The National Marine Fisheries Ser-
vice is in the process of implementing
several management measures to en-
sure sustainable use of the Atlantic
swordfish resource. The rampant im-
portation of undersized Atlantic sword-
fish harvested by foreign fishing ves-
sels is one of the most serious problems
facing domestic and international
management of this highly migratory
species. The Congress recognizes the
significance of this effort and, through
the leadership of Senator Faircloth,
this appropriations subcommittee pro-
vided $500,000 in this fiscal year for
NMFS to fully address this specific
concern.

The Committee intends that NMFS
will utilize the recommendation of the
appropriations subcommittee in their
approach to implement changes to our
current system in order to prevent impor-
tation of Atlantic swordfish not har-
vested in a manner that is consistent
with recommendations under the Inter-
national Commission for the Conserva-
tion of Atlantic Tunas (ICCAT).

I ask my colleague from North Caro-
olina to elaborate upon the intent of
the Committee in its initiative to address
Atlantic swordfish importation
problems.

Mr. Faircloth. The United States
takes a firm conservation position
with respect to ICCAT management
recommendations. Our domestic fisher-
men comply with a tightly managed
quota designed to rebuild this stock
through international cooperation.

Through efforts of the NMFS and our
fishermen, we harvest only the annual
quota of the American fishery, and we abide by the minimum
swordfish size requirement of
33 lbs. Indeed, despite our harvest of less than
five percent of the total Atlantic swordfish quota, the United States is
working within the system to manage
this resource in a sustainable fashion.

Unfortunately, however, not all
countries are playing by the rules. Sev-
eral foreign nations are allowing the
harvest of swordfish that are smaller than
the American minimum legal size. Fur-
ther, this "black market" swordfish often
find its way into our restaurants
and fish markets, and we are effective-
ly undermining our resource
rebuilding programs and our ability to
compete in the marketplace by allow-
ing this situation to continue.

I concur with my colleague from New
Hampshire and move forward for us to
rein this illegal activity—to en-
force our fishery regulations equally
across the board—and protect our dom-
estic fishermen who are operating
just as we have asked them to. The
intent of the Swordfish Conservation
initiative is to arm NMFS with the
financial resources necessary to de-
velop a program to restrict the
importation of Atlantic swordfish that
are below the United States minimum
size. I understand NMFS is
examining a number of possible manage-
ment options, including dealer permits,
country of origin documentation
requirements, and the designation of re-
stricted ports of entry for Atlantic
swordfish to facilitate inspections.

I encourage them to continue in their
deliberations, communicate fully with
our fishermen, and implement a pro-
gram to address our resource and
equitability concerns.

OEC Development Center

Mrs. Hutchison. Mr. President, the
OEC Development Center works to
promote market-opening reforms in de-
veloping nations and has provided valu-
able research and resources to policy
makers and analysts in developed na-
tions and developing countries alike.

The OEC Development Center was es-
blished at the initiative of the United
States in 1962, and we have played a leadership role in the Center
ever since. I believe it is important to
note the OEC Development Center's
role in being a bridge between OECD
technique and non-OECD nations and
emerging economies around the world.

Mr. Gregg. I appreciate and under-
stand the remarks of the Senator from
Texas in support of the OEC Develop-
ment Center and the important role it
plays.
in the next Congress, and I would expect that it would be included as part of next year’s Foreign Relations Authorization Act.

Mr. GREGG. I am grateful for that information from the Senator from Delaware. I know that he is a strong advocate of Radio Free Asia as well as the other broadcasting services. I look forward to working with him on this issue as the bill goes to conference and in the coming years.

JOINT MARINE AQUACULTURE EDUCATION PROJECT

Ms. SNOWE. Mr. President, I would like to engage the Chairman of the Commerce, Justice, State, and the Judiciary Appropriations Subcommittee, Senator GREGG, in a colloquy.

Mr. GREGG. Mr. President, I would be pleased to join the Senator from Maine in a colloquy.

Ms. SNOWE. Mr. President, S. 2260 provides funding for the National Oceanic and Atmospheric Administration to support a joint marine aquaculture education project in Maine. The committee report lists the project sponsor in Maine as the Island Institute, but the actual sponsor is the Teel Cove Sea Farm. Teel Cove is a private company located in the Island Institute, but their organizations are separate entities. In this case, Teel Cove is the chief sponsor of the project in Maine and should be listed as the recipient in the bill or report. I believe that this was the committee’s intention. I would like to ask Senator Gregg if his understanding of this matter is consistent with mine, and also whether he would be willing to take appropriate action to ensure that a correction will be made and Teel Cove will be designated as the project sponsor in Maine.

Mr. GREGG. Mr. President, I agree with Senator SNOWE on this point. Teel Cove is the intended recipient and I will make sure that this matter is clarified before the conference on this legislation is completed.

Ms. SNOWE. Mr. President, I thank Senator GREGG for his statement and his agreement to address this matter. I would also like to ask Senator Gregg if his understanding is correct that the bill before us provides the Administration’s full request for funding of the State of Maine’s Atlantic salmon recovery plan.

Mr. GREGG. Mr. President, this bill does provide the Administration’s requested level of funding for the Maine Atlantic salmon recovery plan.

Ms. SNOWE. Mr. President, I thank the subcommittee chairman, Senator Gregg, for his clarifications and assistance.

FISHING CAPACITY REDUCTION PROGRAM

Mr. WYDEN. I thank the Subcommittee Chairman for including $50,000 in the Committee Appropriations report for a potential loan to fund an innovative fishing capacity reduction program on the Pacific Coast. The program, if it receives the approval of fishermen on the West Coast, would be the first capacity reduction program to be ultimately funded by the fishing industry itself.

To comply with the requirements of section 504(b) of the Federal Credit Reform Act (2 U.S.C. 663c), an appropriation is required to cover the potential default rate for the loan.

My request assumed that the maximum potential cost to the government would be determined for the loan would be one percent, which would allow a loan of $5 million based on the $50,000 appropriated by the Committee. It is my understanding that if the Secretary of Commerce finds that the potential default rate for the loan is less than one percent, the loan amount would be accordingly higher than the $5,000,000 authorized by the report. For example, if the potential default rate for a future Pacific Coast buyback is determined to be one-half of one percent, the loan could be as high as $10,000,000 based on the appropriated $50,000. Is my understanding correct?

Mr. GREGG. I thank the Senator for his support. With the prediction of an highly volatile hurricane season expected for the 1998 season, the Mississippi River hurricanes, many small towns who would be the beneficiaries of this warning system do not reside within range of one of the five NWS transmitters presently in South Dakota.

I have been working with NOAA and the Department of Commerce Under Secretary Dr. James Baker, who is also the Acting Director of NOAA, to inquire about the requirements for obtaining almost complete NOAA Weather Radio coverage for South Dakota. Following my discussions with Dr. Baker, I held several meetings throughout South Dakota with NWS representatives, emergency managers, and county officials to ascertain opportunities and resources already available in our state to augment our existing NOAA Weather Radio coverage.

The South Dakota NWS expects that eight additional transmitters would provide sufficient coverage. The South Dakota NWS currently is examining locations to position these additional transmitters, and they will be submitting their final report to NOAA and my office forthwith.

I hope I will have an opportunity to work with members of the conference committee for the Commerce, Justice, State, and the Judiciary Appropriations bill in order to acquire the funding necessary to purchase NOAA Weather Radio transmitters for counties that presently do not receive NOAA Weather Radio coverage, and to ensure that 95% population of South Dakota’s population is covered by NOAA Weather Radio.

Mr. GREGG. Mr. President, I strongly believe that the modest funding necessary to complete this goal would go a long way in addressing the needs of our state. I look forward to working with NOAA to ensure that the potential default rate is low enough for a future Pacific Coast buyback is determined to be one-half of one percent, the loan could be as high as $10,000,000 based on the appropriated $50,000. Is my understanding correct?

Mr. WYDEN. Further, I would like to clarify to the Chairman in my request, I was seeking credit authority for a maximum loan of $35 million. Is it the Chairman’s understanding that if the Secretary of Commerce finds there is a potential default rate low enough for a loan of $35 million, that a loan of $35 million could be made?

Mr. GREGG. Mr. President, I thank the Senator for his statement and his agreement to address this matter. I would also like to ask Senator Gregg if his understanding of the matter is consistent with mine, and also whether he would be willing to take appropriate action to ensure that a correction will be made and Teel Cove will be designated as the project sponsor in Maine.

Mr. WYDEN. I thank the Chairman for this clarification and his recognition of the opportunity presented by the Pacific Coast plan.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) WEATHER RADIO COVERAGE IN SOUTHDAKOTA

Mr. JOHNSON. Mr. President, recently, a tornado touched down with very little warning, completely destroying the town of Spencer, South Dakota. I want to thank Senator Baker who also is the Acting Director of NOAA for his support. With the prediction of an highly volatile hurricane season expected for the 1998 season, I believe it is my responsibility to use every resource available to address the consequences of weather-related events and work the losses associated with them.

I ask Senator HOLLINGS, do you support my efforts to enhance statewide emergency warning systems in South Dakota through the acquisition of additional NOAA Weather Radio transmitters?

Mr. HOLLINGS. Yes, I support the efforts of the Senator from South Dakota, and I appreciate your bringing to the Senate’s attention the situation in South Dakota to the attention of the Senate. I will work to locate funding for this important initiative.

Mr. JOHNSON. I thank the Senator for his support. With the prediction of an highly volatile hurricane season expected for the 1998 season, I am sure the Senator is aware of the immediate warning that NOAA Weather Radios provide emergency managers.
Mr. D'AMATO. I also thank my colleagues for their help.

ERIE, PA, NATIONAL WEATHER SERVICE OFFICE

Mr. SPECKER. Mr. President, I have sought recognition to comment on the Senate Appropriations Committee's decision to reopen the Erie National Weather Service office at least in part starting this Fall. Congressmen English and I were in Erie in April for meetings with local officials and residents on this important issue and gave strong urging that the process is a direct result of that visit. During that visit, I once again heard the troubling litany of severe weather incidents in Erie, which include blizzards and tornadoes which went unreported and put thousands of residents at risk.

I am pleased that Chairman Gregg was able to fulfill part of my request regarding the National Weather Service's activities in the Erie area and wanted to confirm with him that it is our understanding that pursuant to the language in this bill, the agency will undertake mitigation activities which will include having Weather Service personnel in the Erie office 7 days a week, 24 hours a day, for 6 months beginning October 1, 1998.

I will continue to focus with Congressmen English and Senator Santorum on our goal of reopening the Erie office permanently and ensuring that the office is equipped with the most advanced forecasting equipment available in the federal government. The six-month reopening of the office represents a good step forward and I thank the Chairman for his help.

Mr. GREGG. I concur with my colleagues from Pennsylvania as to my understanding of the agency's intentions. The bill before us provides sufficient funds to reopen the Erie office for six months on an around-the-clock staffing basis as part of the effort to mitigate any degradation of service since the Erie office was closed in 1996. I was pleased to be able to provide at least some redress to those we heard from and look forward to working with him on this issue as this bill moves to conference with the House of Representatives.

Mr. KEMPTHORNE. As envisioned by NMFS, essential fish habitat covers much of the coastal, marine, and estuarine waters of the United States, and it includes some inland habitat for anadromous species. The broad definition of "essential fish habitat" raised concerns that NMFS will apply the EFH virtually everywhere.

In addition, serious concerns have been raised by nonfishing interests regarding their lack of participation in the development of these guidelines. Nonfishing interests were not heavily involved in the development of the guidelines. But when NMFS issued the proposal, a coalition of groups felt that their participation should have been solicited.

Mr. GREGG. It is my understanding that since the NMFS regulation was proposed, that community has offered comments. Given the scope of the EFH proposal, and the wide-ranging impacts on nonfishing entities, I believe the agency should take the view of all entities into consideration.

Mr. KEMPTHORNE. I agree. They object to the scope of the proposed EFH program and are concerned that it will subject activities, including land development, agriculture, water supply, forestry, and mining, to the jurisdiction of the Fishery Management Councils under the Magnuson-Stevens Fishery Conservation and Management Act. The rejection of this criteria's interpretation of a provision in that Act concerns me, the States and a diverse range of affected businesses and citizens throughout the country.

Mr. GREGG. The intent of the original provision was to establish procedures to gather information on essential fish habitat, wherever possible encouraging interagency coordination when other administration programs complemented the EFH goal.

Mr. KEMPTHORNE. As my distinguished colleagues points out, the original provision was limited, focusing on increased efficiency and, wherever appropriate, information coordination. Congress did not intend to authorize a program that creates a sweeping new regulatory program.

Concerns have been raised about the complexity of the NMFS "essential fish habitat" regulations not add a new level of regulation in addition to what is required under the endangered Species Act.

Mr. GREGG. I appreciate the concerns of the Senator. The report accompanying this bill raises issues about the essential fish habitat program.

Mr. HOLLINGS. I am aware of the report language accompanying the Commerce, Justice, and Trade Appropriations bill, and I did not object to the inclusion of that language. To the extent the provisions of the Magnuson-Stevens Act are intended to address growing concerns over the loss of habitat essential to the health of marine fisheries, including many commercially and recreationally valuable stocks.

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by the NMFS. Congress should carefully watch this situation.

Mr. GREGG. The report accompanying this bill directs the General Accounting Office to review the National Marine Fishery Service's implementation of the Magnuson-Stevens Act, including the essential fish habitat provisions. Congress should receive a thorough report on this matter, and I look forward to receiving the results of the GAO's review.

Mr. HATCH. I thank the chairman.

Mr. HATCH. For some time, I have been disturbed over reports that the Drug Enforcement Administration has been imposing multiple, substantial fines for what amount to minor pharmacy record-keeping violations. I am referring to cases in which no unauthorized person obtain control of controlled substances.

Violations of sections 842(a)(5) and (10) of the Controlled Substances Act can result in penalties of $25,000 per violation. I understand that between 1989 and 1997, $50 million in such fines have been assessed.

These provisions of the law adopt a strict liability standard for all record-keeping violations, even a minor error such as a mis-recording of a zip code, or the insertion of a ditto mark.

While we all favor strong regulation of controlled substances, a rule of reason should be applied.

For that reason, I am supportive of the thrust of the language contained in sections 118 and 199 of S. 2260.

Section 118 adopts a "knowingly" standard, rather than a strict liability standard.

Section 119 gives the courts discretion in assessing a fine, unlike current law which is not permissive. In addition, this section lowers the maximum penalty per occurrence from $25,000 to $5,000.

In combination, sections 118 and 119 may provide more correction than is warranted. For example, by adding a scienter requirement, while at the same time lowering the maximum fine, we may be creating an atmosphere in which sloppy record keeping is encouraged.

Overall, however, I am supportive of the work of the Committee in this area of long-standing concern to the Congress. We should provide the DEA guidance, including the playgrounds, pharmacies and the like. We should not be using this part of the statute as a "cash cow" to line the government's coffer.

I will not offer an amendment to these sections at this time. However, I am hopeful that I may work with my colleagues in the Senate and the House to address these concerns in the future.

Mr. GREGG. I appreciate the concerns raised by the Senator from Utah. As you know, we weakened the provision after learning of several cases in which large fines were imposed for relatively minor violations of the Controlled Substances Act. We will be glad to work with you and our House colleagues during the conference, and we appreciate your forebearance in not offering an amendment at this time.

Mr. LEVIN. Mr. President, I wish to express the appreciation of the chairman of the subcommittee for a brief colloquy regarding the very important issue of Federal courthouse security.

As I am sure the Chairman is aware, each day Federal courthouses across the country must temporarily detain thousands of prison inmates for hearings and interviews. The facilities must be secure because the courthouses are occupied by members of the public and the judiciary. For example, the U.S. Marshal's Service, which oversees Federal Courthouse Security, recommends that larger courthouses be equipped with a secure garage area referred to as a "sally port" where prisoners can be transferred to the courthouse by van or bus, a detention facility where prisoners may be temporarily housed, secure interview rooms where prisoners can be questioned by Assistant U.S. Attorneys, and if possible some separate secure hall or corridor through which a violent or dangerous prisoner can be transferred to a courtroom apart from the public and the judiciary.

Mr. GREGG. I am aware of the security needs of the various courthouses.

Mr. LEVIN. Mr. Chairman, it has come to my attention that many of the older Federal courthouses do not have proper facilities to adequately secure prisoners and assure the safety of the public and the judiciary. For example, in my own state of Michigan the U.S. Marshal's Service has informed me that the older courthouse, is in desperate need of security improvements. The building contains no sally ports, and prisoners are transferred from vans and buses in the same modern ventilation systems that control air borne diseases such as tuberculosis. Also, there are no interview rooms in which defendants or prisoners acting as witnesses for the Government can be questioned by Assistant U.S. Attorneys or their own counsel. This has led to difficulties for the local U.S. Attorney and the U.S. Marshal, who has been forced to use extra members of his staff that are needed elsewhere to instead guard meeting rooms while the interviews take place. Moreover, the Detroit Courthouse has no secure corridor to transfer prisoners from the detention cells to the courtrooms so that dangerous prisoners must be transferred in the same halls that are used by the public. Finally Mr. Chairman, the Marshal's Service has informed me that there is also a problem with many newly constructed courthouses, which cannot be opened because insufficient money is available to equip the building with a minimum level of security systems such as security cameras and alarms.

Mr. GREGG. I am aware of the problems you have raised with respect to courthouse security, and you have made a strong argument on behalf of increased funding for courthouse security projects. I would like very much to fund more courthouse security projects such as those in Michigan. Unfortunately, we are operating under tight budgetary constraints. While there are many deserving projects, the Committee could only fund a limited number. I will continue to work with you in the coming year to solve this serious problem of courthouse security.

Mr. KERRY. Mr. President, as Ranking Democrat on the Committee on Small Business, I wish to express my support for funding the Small Business Administration's Office of Advocacy at the full requested level of $1.4 million for FY 1999. The Office of Advocacy plays a vital role in the Federal government by conducting research on issues of particular importance to small business. Recently these issues have included, among other things, access to capital, procurement policy and the cost of Federal regulations. Small businesses are 99 percent of America's businesses; they created more than 90 percent of new jobs in recent years. The research performed by the Office of Advocacy is an important tool for policy makers and legislators who focus on the nation's small businesses. It deserves to be funded at the full $1.4 million, as requested by the Administration.

Since the Office is typically funded from the SBA's general salaries and expenses account without specific designation, I ask for clarification from my colleagues, Senators Gregg and Hollings, as to why the Committee could only fund a limited number of projects. It was the Subcommittee's intent to fund the Office of Advocacy's economic research function at $1.4 million. This Subcommittee believes the Office of Advocacy at $1.4 million for FY 1999. This Subcommittee believes the Office has provided good service to the small business community, and the work is also useful for Congress and other policymakers. Mr. HOLLINGS. Mr. President, I concur with Subcommittee Chairman Gregg. The work of the Office of Advocacy is important to lawmakers and policymakers alike. It was our intent that the Office of Advocacy receive FY 1999 funding at the full requested amount of $1.4 million.

Mr. HATCH. Mr. President, I see my colleagues from New Jersey Senator Torricelli, and the distinguished bill manager on the floor. I would like to briefly engage them in a colloquy on...
the amendment offered by the Senator from New Jersey, relating to model guidelines on bounty hunters to be published by the Attorney General. I understand the concerns of Senator TORRICELLI in this matter. None of us want, and I certainly do not, to do anything to adversely affect the bail bond industry, which has served our criminal justice system well in providing release of non-dangerous criminals for trial. Mr. TORRICELLI, I say to the Chairman of the Judiciary Committee that that is a correct interpretation of my intent.

Mr. HATCH. I continue to have some concerns about my colleague’s amendment in this respect. However, I believe that these concerns could be resolved during conference. Would the Senator agree to work with me to address this issue?

Mr. TORRICELLI. I would be glad to assure Senator HATCH that I will work with him to ensure that the product that emerges from conference resolves both of our concerns.

Mr. GREGG. Mr. President, I, too, would like to say that I am committed to working during conference with both Senator HATCH and Senator TORRICELLI to address the Judiciary Committee Chairman’s concerns.

Mr. HATCH. Mr. President, I thank my colleagues for their consideration, and look forward to working with them on this.

HIGH-TECHNOLOGY ASSISTANCE FOR SMALL- TO MEDIUM-SIZED MANUFACTURERS

Mr. GREGG. Mr. President, my home State of New Hampshire leads the nation in the percentage of private sector employees in high technology jobs. The high technology business in New Hampshire has made the State economy strong and has helped lower the unemployment rate. I am pleased with the high rate at which high technology companies have made in my state. I am concerned, however, that the benefits to the State from these industries do not reach the more rural areas of New Hampshire. Much of the benefits of the high technology growth have been concentrated in the southern, more urban parts of the State. The more rural areas in the north are not growing as quickly or realizing the benefits of new, innovative technology as widely.

It recently came to my attention that the University of New Hampshire’s Wittemore School of Business Small Development Center (NH SBDC) has come up with a plan to help the rural areas in New Hampshire take advantage of New Hampshire’s technology industries’ growth. The NH SBDC proposes to launch a model program to provide technical assistance to small-medium-sized manufacturers (SMMs) in rural areas, which will allow them to benefit from innovative technologies being utilized in other parts of the State. New Hampshire’s program could serve as a model for other states that are experiencing similarly slow growth in rural areas. Among the services that NH SBDC intends to provide are: linking rural SMMs to high technology companies; identifying SMMs that have the greatest potential for implementing innovative technology in rural areas; and helping SMMs identify critical paths to success in their areas.

The NH SBDC would like to implement this plan with funds from the Small Business Administration (SBA). The SBA often funds projects similar to this and, in fact, currently has a successful program in place called the SBA 7(j) program that provides funding for training and technical assistance to rural areas. If the SBA and the NH SBDC work together to develop the plan outlined by NH SBDC, I believe that it could have a significant positive impact on New Hampshire’s rural manufacturers. The knowledge gained from this innovative concept can eventually help all States overcome similar problems in rural areas. I urge the SBA to accommodate the NH SBDC’s request for assistance with this project. I look forward to working with the SBA to ensure that this program can be launched to help rural companies in New Hampshire and the States benefit from the innovative technologies that are used in more urban areas.

Mr. BYRD. Mr. President, I want to applaud the Chairman of the Subcommittee, Senator GREGG of New Hampshire, and the Subcommittee’s Ranking Member, Senator HOLLINGS of South Carolina, for their work on the Commerce-Judiciary-State Appropriations bill. They have crafted a good piece of legislation that will help to meet a variety of needs across the country.

One of the important and pressing issues addressed in this legislation is school safety. During the past several years, there has been an increase in incidents of school violence. These acts are not limited to specific geographic regions or family backgrounds, nor do they have a single catalyst. Those who have committed such cowardly acts have done so for different reasons, at different times, in different schools. But these acts of school violence have at least one thing in common—they have spurred all of us to take a closer look at what can be done to better protect our children.

In this Commerce-Judiciary-State legislation, the Senate offers one new tool in that effort. We have earmarked $210 million in the bill for a new national safe schools initiative geared to assist community-level efforts.

Parents should not have to worry, when they put their children on the bus to school in the morning, that those children will not return home safely in the afternoon. In an effort to provide additional resources to reduce the levels of violence in our classrooms, I supported this initiative to strengthen local violence prevention and technology efforts.

Within the $210 million, $25 million will assist communities in developing and implementing local school safety approaches. Another $10 million is for the National Institute of Justice to develop new, more effective safety technologies and communications systems that can provide communities with quick access to the information they need to identify potentially violent youths.

Perhaps most important is the $175 million for the Community Oriented Policing Services Program to increase community policing in and around schools. This would be an extension of the COPS program which has been widely hailed as a successful deterrent to crime. In West Virginia, some school districts already partner with the local police department to have what they call “police resource officers” in the schools. Officers and educators alike believe that having a familiar police presence in the hallways and a cruiser in the parking lot helps to reduce violence at school.

Ensuring that our classrooms are safe demands that we do everything possible to find safe places for our children to learn and play and grow. While no single action can solve this pressing problem, the funding in this bill is an important step toward that common goal.

Mr. President, also in this legislation is an amendment that I introduced on behalf of the thousands of families in West Virginia’s Upper Ohio Valley and throughout the country who rely on the steel industry for their livelihoods. These are the people who work in the shops and in the mills, and who pay the taxes, and whose sweat keeps America running. My amendment calls for a report by the United States Trade Representative on trade subsidies provided by the South Korean government to its domestic steel industry. Illegal foreign subsidies are undermining the economic stability in regions throughout our country—literally taking money out of the pockets of American families and putting it into the accounts of foreign governments.

The American steel industry for too long has been forced to compete in an international marketplace that was unbalanced by foreign subsidies, especially those of the South Korean government. By offering this amendment, I want to send a clear message that the United States will not allow foreign governments to undercut fair trading practices. This Congress is prepared to defend our country’s commercial interests and take action when those interests are threatened.

West Virginia steel companies, like Weirton Steel, should not be expected to compete in a marketplace that places unfair obstacles in their paths. When foreign governments subsidize inferior products in the marketplace, they change the rules, and make it unfair. Those overseas subsidies directly impact the jobs and livelihoods of working men and women and their families.
here at home, as we have seen in Welton.

**FUNDING FOR GUN PROSECUTION PROJECTS**

Mr. HATCH. Mr. President, I appreciate the manager of the bill accepting the amendment I filed to the Commerce, Justice, State Appropriations bill, S. 2660, which directs the Attorney General to identify two major metropolitan areas besieged by gun-related crime and to initiate vigorous federal gun prosecution projects in those districts. This amendment directs $3,000,000 in new funding for additional prosecutors and investigators to ensure that criminals bearing guns are not released due to a lack of prosecutorial resources.

The inspiration for this amendment is “Project Exile,” an extraordinarily successful effort by the United States Attorney for the Eastern District of Virginia to rid Richmond of armed criminals by “exiling” all those who use firearms to commit a crime to a federal prison. The multitude of unrequested earmarks in this Appropriations bill are a serious diversion of scarce resources. Mr. McCaIN. Mr. President, I want to support this amendment, which directs the bill for their hard work in putting forth annual legislation which provides federal funding for numerous vital programs. The Senate will soon vote to adopt the Commerce, Justice, State Appropriations Bill for the Fiscal Year 1999. I intend to support this measure because it provides funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. This further addresses the shortcomings of the immigration process, continues the operation of such programs as the facility for commerce throughout the United States, and fulfills the needs of the State Department and various other agencies.

However, I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this bill and its accompanying report. This year’s bill has $361 million in pork-barrel spending. This is a slight improvement over last year’s, which was $405 million. The State Appropriations Bill, which contained $394.2 million in pork-barrel spending. However, $361 million is still an unacceptable amount of money to spend on low-priority, unrequested, wasteful projects. In short, Congress must curb its appetite for such unbridled spending.

The multitude of unrequested earmarks buried in this proposal will undoubtedly further burden the American taxpayer.

This statement highlighting wasteful and unnecessary spending in authorization and appropriations bills may appear to be a mere political ploy. This is not the case. $361 million spent on local-specific, special interests, pork-barrel projects is not mere rhetoric. Wasteful spending of this magnitude erodes the public’s trust in our system of government. Mr. MCCaIN. Mr. President, I am sure there are other centers throughout the U.S. which serve the same or similar missions as the North/South and East-West Centers. Other well-deserving projects of merit and national necessity deserve to compete for the scarce funds gobbled up by local-specific earmarks such as the North/South and East-West Centers. Why are we spending $22.5 million on the East-West and North/South Centers alone? What makes these centers so extraordinary that they receive specific earmarks in this Appropriations bill?

I am not condemning the North/South or East-West Centers. Nor am I condemning the merits of the purposes they serve. I am simply concerned about the manner in which they are receiving scarce government funds.

I am sure there are other centers throughout the U.S. which serve the same or similar missions as the North/South and East-West Centers. Unfortunately, these projects will never receive fair deliberation of the Appropriations Committee pre-determines their fate by “recommending” and “urging” the Department to give special consideration to certain projects over others. In sum, it is patently unfair to divert scarce resources to pork-barrel, special interest projects, at the expense of well-deserving projects which would benefit the public as a whole.

The bill also contains language that directs the Immigration and Naturalization Service to open new duty stations in Grand Junction, Colorado. Moreover, this language directs the INS to open new duty stations in...
Alamosa, Glenwood Springs, Craig, Durango, and Greeley, Colorado. The Committee does not explain why specific sites are higher in priority than others, or why these sites are more deserving of funding. I fail to comprehend why these locations shall receive such special attention while the rest of the nation must compete for funds in the appropriate merit-based selection process.

Mr. President, I will not deliberate much on this subject because I strongly object to the wasteful spending in this Appropriations bill. How can we combat the American public's cynicism towards our governmental system when we continue to fund low-priority, wasteful pork-barrel projects? I urge my colleagues on both sides of the Capitol and on both sides of the aisle to develop a better standard which curbs our habit of funneling hard-earned taxpayer dollars to locality-specific special interests. Commit- ment to national security and good must continue to be our priority. We can only live up to this challenge by eliminating the practice of catering to low-priority special interests, at the expense of the average American.

As I have said in the past, I look forward to the day when Congress can present to the American people a bud- get that is both fiscally responsible and ends the practice of wasteful pork-barrel spending in Appropriations bills.

Mr. BIDEN. Mr. President, as we close debate on the Commerce, Justice, State appropriations bill, I would like to make a few comments on the funding for the foreign affairs agencies. I want to express my appreciation to the Chairman and Ranking Member of the Subcommittee for their efforts to provide adequate funding for the foreign policy agencies within the tight allocation they have. The United States has a strong military and economic power, with extensive interests overseas. To protect those interests, we need both a strong military and a strong diplomatic corps. "Diplomatic readiness" is more than a slogan; it represents a commitment to ensure that our diplomats, who stand on the front lines of our national defense, have the resources to perform the many tasks we entrust to them.

I commend the Committee for providing the foreign affairs agencies, necessary and critical funding to modernize the Department of State's information technology. The Department made some bad choices in previous years, and is now saddled with antiquated computer and telecommunication technology. Information is central to the task of diplomacy, and we are undermining our interests substantially unless we properly equip the Department with modern technology.

I'd like to say a few words about the Bureau of Export Administration in the Department of Commerce, which performs several functions that are vital to the national security of the United States. The managers of the bill before us were unable to find $2.5 million for three of those vital functions. I appeal to the managers to make every effort to find those funds in con- ference, so that we can continue to safeguard the national security as the Administration has requested us to do. These important Export Administration needs are as follows:

- Ten new positions (8 full-time equivalents) to fully staff Export Adminis- tration field offices, so that they can mount more intensive enforcement of U.S. controls over dual-use items that could otherwise be diverted to military or terrorist uses.
- Three new positions (2 full-time equivalents) to enhance the enforce- ment regarding shipments to Hong Kong, so as to prevent or stop any di- version of strategically-controlled goods to China; and
- Six positions (4 full-time equivalents) to maintain the Nonproliferation Ex- port Control teams that help countries in the former Soviet Union to improve their export control systems.

The first two items, which require a total of $2.2 million, are self-explanatory. We have legitimate concerns regarding the possible Chinese diversion to military purposes of machine tools and high-speed com- puters, we must give the Bureau of Export Administration the funds and po- sitions it needs to enforce U.S. law and regulations that control such exports and provide for follow-up monitor- ing of their overseas use.

The Nonproliferation Export Control teams require a word of further expla- nation. This function—which is part of the Cooperative Threat Reduction pro- gram—has proceeded for some years with funding from the Department of Defense and the Department of State. The Department of Commerce agreed last year, however, to assume the costs of its inspectors in this program. The State and Defense budgets no longer include funding for the Nonproliferation Export Control teams. If Commerce Department funds are not found for this purpose, this valuable program could well be lost.

What would we lose if the Nonproliferation Export Control teams were to go away? Those teams have performed incredibly well, fostering ties at the customs agent level and helping the former Soviet states to es- tablish export control laws and institu- tions to can prevent the loss of sen- sitive goods and information to rogue states or terrorist groups.

For example, the Government of Ukraine wants a team to help brief members of its parliament on inad- equacies in Ukraine's current law. The Government of Slovakia wants help in developing regulations to implement its new export control law. Export Ad- ministration funds support these ef- forts in full cooperation with other U.S. departments and agencies.

I realize that resources are tight, but it would be a grave mistake, in my view, to let this valuable non-proliferation resource slip away from us. So I urge my colleagues, the managers of this bill, to find the $1.2 million needed to keep the Nonproliferation Export Control teams alive and well in Fiscal Year 1999. I also urge them to find the $1.2 million needed to improve our own export enforcement regarding dual-use goods that we must prevent from being used against U.S. interests. I realize these are small amounts in a bill that funds three large cabinet departments, but they could go a long way in ad- vancing our non-proliferation inter- ests.

In closing, I want to again express my appreciation to the managers of this bill. They had a very difficult task in balancing all the competing interests in this bill, and I believe they did an excellent job in balancing those interests.

Mr. HOLLINGS. Mr. President, I sug- gest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GREGG. 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. GREGG. I ask unanimous consent that at 3:15 we begin the vote on the Smith amendment, to be followed by the vote on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. 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. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3258, AS MODIFIED, AS AMENDED

Mr. GREGG. Mr. President, I ask for the yeas and nays on the Smith amend- ment.

The PRESIDING OFFICER. The yeas and nays are desired. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPE- CIER) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 31, as follows:
The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GREGG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—99

Abraham Alan
Aksakal Halka
Allard Enzi
Ashcroft Frist
Baucus Moynihan
Bennett Gorton
Biden Graham
Bingaman Gramm
Bond Grams
Breaux Grassley
Brownback Gregg
Bryan Hagel
Bumpers Hatch
Burns Helms
Campbell Hollings
Chafee Hutchinson
Chesler Hutchinson
Coats Inhofe
Cooper Jeffords
Collins Kempthorne
Coverdell Kerrey
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D'Amato Lott
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making an estimated 425 million visits to complementary and alternative practitioners of these therapies—surpassing those made to conventional primary care practitioners!

And with good reason. Last November, the new Institute of Medicine of the National Academy of Sciences issued a strong endorsement of the beneficial effects of alternative therapies to manage their pain and suffering. Alternative and complementary therapies are used by many people who cannot get the care they need from conventional health care providers.

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[45x67]and alternative treatments, including acupuncture, which I might point out is not a new treatment but, indeed, has been practiced in China for the last 2,000 to 3,000 years, and, increasingly, more Americans are choosing these alternative therapies to manage their health and to treat the illness.

Let me mention that, first of all, during this session, and heed the urgent need for progress. Mr. President, the nation's leading scientists have demonstrated the safety and effectiveness of acupuncture as a treatment for a wide range of pain and illness. It is now commonly acknowledged that Medicare and FEHBP cover this legitimate course of therapy.

I invite other Senators as co-sponsors. Hopefully, we can get the bill passed during this session.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDENT OFFICER. The Senator from Massachusetts.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, on February 25, 1997, a number of us introduced the Patients' Bill of Rights. Since that time, the Republican leadership has sought to delay and deny action. The leadership and Senator GRAMM have made it very clear that they are not yet willing to allow a free and fair debate.

Mr. LOTT. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield without losing my right to the floor.

Mr. LOTT. I would like to say to the Senator that we would be glad to agree to have this debate and go forward with the Patients' Bill of Rights issue. I would like to begin thinking in terms of what we could work out as a unanimous consent agreement. Going back to J une 18, originally, it was suggested that Senator KENNEDY's bill be up and we have an alternative, and that we have a good debate and vote. That is fine. Let's do that. Then I suggested, well, if we could get some time agreements we could vote on it, with some limited amount of amendments, we could do that. I don't think 40 would be considered reasonable.

But I am saying to the Senator that I would like to work something out. I am hoping that next week, Wednesday or Thursday, we are going to get to this and get it done before we go home for the August recess period.

I just want to say that we are ready. We would like to do this. Beginning next week, I am going to start asking unanimous consent requests to actually get it done, because we are ready to go to a vote. But we also have other things. And Senator KENNEDY has been cooperative. We have been working to get issues done. We need to try to do that and allow time for a full and fair debate on this issue. We would be glad to do that.

I just wanted to make sure he was aware that we are willing to do that. Mr. President, I have heard that same explanation, with all respect, by the majority leader for some period of time.

I want to just review, since the majority leader is on the floor at the present time—we had the budget resolution. We had 7 days of debate. We had 105 amendments. Defense authorization, we had 6 days of debate, 150 amendments; Internal Revenue Service reporting, 8 requests of debate, 13 amendments. We had tobacco, 17 days and scores of amendments; agriculture, 5 days of debate and 55 amendments. The Senator now is saying, Well, we will bring it up next week, just before we go out, and have a vote on your amendment or the Daschle bill and/or the Republican proposal.

Mr. President, I just wonder why we can't have a full debate on the comparison between the emergency room provisions of the Republican guarantees and those in the Patients' Bill of Rights.

I intend to talk about those—now I have the floor. I have the floor. I am glad to yield—but when I inquired of the leader on other occasions, he gave us this other little explanation. "We are going to come to this sometime when we are ready to come to it, some other time, next week, and maybe Wednesday, or Thursday, just before we go out we will have some proposal." We are just spelling out now what has been included in these different bills and why it is important to have a full and fair debate on them.

We have seen and we know what the leadership's position has been until the very recent days, when referred to refuse to permit us to have a markup in our committee, refused us to be able to even have scheduling. We have seen the list of the Republican leadership, and it never was on the list of the Republican leadership in terms of priorities.

Now we are glad that last Friday there was the publication of the "Republican Bill of Rights." That was last Friday. But I want to just review, since the leader mentioned the proposal that was put forward before the leader. This was, I believe, the June proposal that was put forward by the majority leader.

I ask unanimous consent that prior to the August recess [J une 18] that was 4 weeks before J une 18 prior to the August recess, the majority leader, after notification to the minority leader, shall turn to the consideration of a bill to be introduced by the Senate leader on other occasions, he gave us this other little explanation. "We are going to come to this sometime when we are ready to come to it, some other time, next week, and maybe Wednesday, or Thursday, just before we go out we will have some proposal." We are just spelling out now what has been included in these different bills and why it is important to have a full and fair debate on them.

Now, it goes on. It does not include the right to hold the plans accountable. It does not include protecting people who buy their own insurance policy.

I just want to review, since the leader mentioned the proposal that was put forward before the leader. This was, I believe, the June proposal that was put forward by the majority leader.

I ask unanimous consent that prior to the August recess [June 18], that was 4 weeks before June 18 prior to the August recess, the majority leader, after notification to the minority leader, shall turn to the consideration of a bill to be introduced by the Senate leader. But I want to just review, since the leader mentioned the proposal that was put forward before the leader. This was, I believe, the June proposal that was put forward by the majority leader.

I ask unanimous consent that the Senate be permitted to receive this legislation, Mr. President. It is the Senate bill that we are asking for, and the Senator from Massachusetts is introducing the Patients' Bill of Rights. I hope that the Senate will come to the consideration of this legislation soon, and I hope that the Senate will vote on this legislation.

I further ask that during the consideration of the health care issue it be in order for Members to offer health care amendments in
the first and second degree. I further ask unanimous consent that the Chair not entertain a motion to adjourn or recess for the August recess prior to a vote on or in relation to the majority leader’s bill and amendments and that, following those votes, it be in order for the majority leader to return the legislation to the calendar.

Even if we win the vote, the majority leader has the ability to send it to the calendar—not send it over to the House of Representatives, send it to the calendar, even if we win that proposal.

Now it continues.

Finally, I ask unanimous consent that it not be in order to offer any legislation, motion or amendment relative to health care prior to the initiation of the agreement and following the execution of the agreement.

Not be in order to offer any legislation, motion or amendment to health care.

Well, there it is, Mr. President. We are scared in the Senate. After we have some vote, even if we survive, the majority leader has the ability to send it to the calendar, and under the consent agreement we can’t even talk about health care for the rest of the session; for the rest of the session. That is what it says here, the rest of the session.

Now it continues. The agreement that is referred to. “I want to remind the Senator from Massachusetts we keep asking the Democrats for proposals on it.”

I don’t know how long it took to reject that particular proposal, but there it is. In all the time I have been in the Senate, this is really the most preposterous proposal, consent agreement I have ever heard, that if you are going to be successful and win, instead of sending the bill over to the House, you put it right back on the calendar, and you cannot have a vote on the legislation. And then after that, you can’t bring up any issue relating to health for the rest of the session—nothing on privacy, on expanding the Medicare program, on purchasing the possibility for elderly citizens to buy into the Medicare system, no way. Nothing dealing with any of the issues dealing with health care.

That is the proposal and that is what we are supposed to say, “Oh, what a fair proposal this is.”

And so we have the Republican proposal that was introduced last Friday. Now, we have no interest in delay of the legislation. We have been asking for amendments. Amendments. We have asked for a fair debate on accountability. That is what we are asking, fair debate on accountability. We have had scores of amendments and days of debate on other legislation, and we are entitled to fair debate on accountability on these measures.

There are dramatic differences on these measures. I will take a few moments to get into some of those.

Senator Dole made a series of formal offers on July 16th, asking for a debate beginning on July 21 with 20 amendments on a side. It is almost a week later and all we have is that maybe sometime Wednesday or Thursday next week we may have time to have a debate on an issue which is of paramount importance for the parents and families of the people of this country.

So this is not an unreasonable request given the importance of this bill and the large number of loopholes in the Republican proposal which will be the bill in the Chamber.

We had, and not surprising, days of debate on the budget resolution, 6 days of debate on defense authorization, 150 amendments.

We had 8 days of debate on the Internal Revenue bill, just concluded 5 days of debate and 55 amendments on the agricultural appropriations bill.

This is the most important health care bill that this Congress will consider, and we are now told by the majority leader that maybe sometime next week he will make a request that we deal with this in 2 days. We had 8 days, as I mentioned, on the Internal Revenue bill, and 5 days of debate, as I mentioned, on agriculture. Now, the Majority Leader Grifil, the leader, Senator Gramm are insisting the only way they will debate the issue is up or down on their bill and one vote and that is it.

The American people deserve to know where their Members stand on a number of critical issues that are essential to patient protection. The Senate deserves an opportunity to amend and improve the Republican bill. It is not unreasonable to ask Members where they stand on whether protections should be given to all 160 million privately insured Americans or leave 100 million out. The Republican proposal leaves out more than 100 million Americans. Now, maybe they have some sort of an argument. Maybe the answer is the States are doing it. Well, we ought to have an opportunity to find out and discuss what the States are doing and how much they are doing and how effective it is, given the kinds of concerns that patients have.

Let’s have a debate on the Senate floor. No, no, we don’t have time to get into the fact of whether their measure will just cover 48 million and exclude 110 million, or cover all of them. It is a pretty important issue, it seems to me, Mr. President.

Is it unreasonable to ask Members where they stand on allowing a sick child with rare cancer access to a specialist to treat that particular disease? We all remember the testimony this morning from a very outstanding oncologist, a specialist who has been operating primarily on women with breast cancer, and she said, with tears in her eyes, talking about the various patients she’s treating who come to her with these various tumors in their breasts. And she looks at the first part of the chart and finds out what the size of that particular tumor was when it was first diagnosed and then what it is now that she is there called upon to operate.

She says the time that lapsed between the first discovery of those biopsies, which demonstrate that the tumors are cancerous, to the time she gets to see them is often the difference between life and death and more often than not, as she looks over the various files that she gets of various women, the ones with the largest gaps are the ones who are part of the procedures that have been denied.

Or listen to the doctor who was talking today about a particular procedure that was going to be necessary for a child who was having headaches, and the doctor said, “What we need is an MRI,” and the HMO turned that down. Under the Republican bill, since the cost of that MRI was $750, that decision would not be able to be appealed. It was less than $,000. This was a family of five, income of $30,000. The difficulty of that family was having the $750.

And do you know what the family did? They went down to the county hospital—the county hospital. After a long time to get there to get that MRI in the county hospital to find out about the needs of that particular child. You know something. The taxpayers picked up the tab for that. And the bottom line of that MRI looked better and better and better. They didn’t have to pay for that important service which the subscriber had effectively paid for when they signed on for the health care coverage.

Mr. President, we ought to be able to talk and debate about what is going to happen, what kind of protections are we going to give doctors when they speak out for their patients in the HMO system. Are they going to be under the Republican program which still permits doctors to be fired if they object to prescribing certain procedures to patients that are not desired or approved by an HMO? Shouldn’t we provide protections for doctors that are looking out for their patients? It is not only at that HMO. Shouldn’t we have a time to debate that issue here to find out about it?

What about the independent and timely third party review? Do the Members know that on the independent review, under the Republican program, those who are going to be paid to review the various procedures which are being reviewed and appealed are going to be paid for by the HMO, the same HMO? Do they know the restrictions in the Republican proposal in terms of the time frames for these types of procedures that can be appealed? We don’t want to debate that?

I can understand why the Republican leadership doesn’t want to debate it. Because it is indefensible. It is indefensible. And access to clinical trials, an enormously important issue, particularly for individuals who have some of the most serious illnesses in our society, we are going to say or give assistance to those who may have breast cancer—are we going to exclude them from participation in these clinical trials? It is an important distinction between the
Republican proposal and our Patients' Bill of Rights.

We have the continuity of care. When a family has a doctor they are seeing and that doctor is dropped from a particular program, under our proposal we provide that there is going to be no less continuity of care. Perhaps it is an expectant mother who is going to deliver and, for one reason or another, that doctor is dropped from the particular plan. We give assurances.

So does the Republican program. Listen to this. If the employer, however, makes a judgment to change the plans in the middle of the year, and that doctor is treating this same patient, under the Republican program there is no longer continuity of care. Both programs show continuity of care. You have to read the small print; you have to understand what the small print says. Shouldn't we have an opportunity to debate that issue?

The question of accountability is something that demands an opportunity to debate that issue. We are talking about the protection that is given to 23 million Americans, county and State employees; 11 million Americans who have private insurance companies, and an indication there is no indication of any escalation of their costs in their program, nothing showing that has been introduced here in the Senate. Some have tried to represent these as extraordinary escalations of cost, but there is no indication, nothing has been put in the RECORD. What has been put in the RECORD is these 23 million Americans. In CalPERS, in California, they have this system with accountability and liability built in so they can hold the HMOs accountable, and there is no apparent increase in the cost of those programs.

Basically, what we are saying is very simple, a very simple concept at the heart of our proposals and which I believe the Republicans have to be able to defend, because it is lacking in their proposal and it is worthy of debate. That issue alone is worth hours of debate here in the U.S. Senate, with the American people watching, because we believe that ultimately the judgment and decision on medical decisions ought to be made by the doctors and the patients, and not by accountants of insurance companies for the profits of those particular insurance companies. That is a basic and fundamental core difference that is on the line in the case with a number of different protections in our bill. That kind of assurance is lacking in the Republican bill.

There will be those who say, "No, it is not lacking." We ought to have a chance to debate, so the American people can make up their own minds and find out whether it is lacking. We can get the legislation out and show where it is lacking. But that is something basic and fundamental.

We also believe we ought to be able to leave it up to the States to make those judgments and decisions on calling the tune on the issues of accountability and liability. We hear a great deal around this body about "one size does not fit all," that all knowledge is not in Washington, DC, or on the floor of the U.S. Senate; that the States have a better understanding for continuing to work on these issues and problems. How many times have we heard that speech? You have heard the speech, but you will not hear it when we are debating the Patients' Bill of Rights. You will not hear it because our proposal leaves it up to the States to be able to do so. Not the Republican leadership program. They effectively preclude the States from having any voice—shut them out, shut out the States.

I hope we don't hear that argument about the importance of all knowledge failing to be in the U.S. Congress and Senate, so let the States decide. That is not going to be an argument you will hear because under the Republican proposal there will not let the States decide.

What is the issue we are talking about? We are talking about a medical decision that is made by the doctor and that doctor is dropped by the HMO and causes grievous injury to that individual—maybe life or serious illness; maybe a mother or father, trying to make sure those children and the members of the family are not just being dropped. Should we not have any kind of compensation for the decision that is being made for the profits of that particular industry overriding the clear medical decisions. There has to be accountability. There has to be accountability.

We have seen effective programs which we have built into programs on appeals, internal appeals and external appeals, that also have accountability. It works. We improve and strengthen the quality of those programs. We have 11 million Americans—11 million Americans—who have independent insurance programs that have this kind of accountability. It works for them.

So we have 34 million Americans who have this kind of protection, but we are asked to exclude it, to deny the States from even letting those citizens who live in that State who want it from having it. That is part of the Republican program. Don't we think that is worthy of a debate? Do you want to have a hearing on the lack of debate and discussion on that particular issue? That just does not make sense.

Mr. President, when the leadership wants to go ahead on these appropriations, I am glad to yield the floor so Senator Barraclough and Senator Hager can go on Senate business. But I want to just make a final few comments.

Mr. President, I believe the Republicans have abandoned their 16-month-long posture of total noninvolvement in the Patients' Bill of Rights. Now they have produced a plan that burros the name of our legislation and nothing else. The Senate Republican plan is not a bill of rights, it is a bill of wrongs. The Senate Republican plan is even weaker than the House Republican plan. It is a "Gingrich lite." It protects industry profits instead of protecting patients, and it is so riddled with loopholes, it is unbelievable. We have to continue to work on this issue.

And who supports the Republican plan? The insurance industry and the HMOs. Does that tell you something? Does that tell you something? Mr. President, on this issue it tells us a great deal. This is not a question where we have some ideas, and half the doctors in the country and half the patients' organizations say this is a better idea, and our colleagues on the other side have half of them, and people can say, "Why don't you get together?"

They don't have them. They don't have them. They don't have the principal organizations. I will be glad to have any organizations representing health professionals or patients groups that they have.

We still haven't heard. I can't believe if you didn't have them, they wouldn't have them out there. We have them. They support our program. They support the real Patients' Bill of Rights.

But they do have the health insurance industry and they have the HMO organizations, the trade organizations that represent HMOs—they support their program.

Mr. President, we believe that patients with cancer and heart disease and other serious illnesses will not have timely access to specialists and the treatment they need. It immunizes managed care plans from liability for abuses that injure or even kill a patient. No other industry in America has this immunity from any liability which the health insurance industry has which is passed by the Republican plan, and the managed care industry doesn't deserve it either.

Most of the minimal protections in the Republican leadership plan do not even apply, as I mentioned, to the majority of Americans. Two-thirds of the people with private insurance, more than 100 million Americans, will not benefit from the Senate Republican plan. The HMOs are effectively exempt from regulation under their plan because most of their standards apply only to employer-based, self-funded plans. Let me repeat that. Most of the standards in the legislation do not even apply to the HMOs, only to employer-based, self-funded plans. Let me repeat that. Most of the standards in the legislation do not even apply to the HMOs, only employer-based, self-funded plans. Let me repeat that. It is unacceptable to the American people and should be unacceptable to the Senate.

The Senate leadership introduced their legislation on Friday. I reviewed
the print over the weekend, and the sum total of what is not in their plan at all is staggering. The fact that these minimal protections only apply to a third of the people who need help is shocking. But the disinformation campaign does have one thing I have never seen anything as indefensible as this. The Republican plan does not include many key protections.

There is no provision to prevent health plans from arbitrarily interfering with the decisions of the doctors. There is no provision to guarantee access to necessary specialty care. There is no provision to allow individuals killed or injured by plan abuse to hold the plans liable. There is no provision to allow participation in clinical trials. There is no provision to allow access to prescription drugs not on a plan formulary. There is no provision for continuity of care when an employer switches plans. There is no effective ban on plan practices which gag physicians; no limits on improper incentive arrangements. We were looking to address this issue of gagging the physician. They say, "Oh, yes, we have that; we have a provision that says we will not gag physicians." The problem is, unless you address the firing clauses of the HMOs that permit the heads of the HMOs to fire doctors whenever they want, then the gag provisions are meaningless, because they can say, "OK, you can go out and talk all you like, but you're not coming in to work tomorrow." Let's stay with the gag rule, Mr. President, where just the gag rule is the only gag rule.

That is effectively what the Republican plan does. It has no prohibitions against these financial incentives for doctors. It won't publish financial incentives for doctors so that the public, in reviewing a plan, can find out if a doctor has financial incentives for providing certain kinds of treatment and not providing others, which is happening today. We have given examples of those types of procedures. There are no protections for that.

It does not include a requirement for comparative plan quality information. You cannot find out about the consumers', the patients', satisfaction. You can't find that out. If you ask to find that out, they say, "Well, that's going to be too bureaucratic; that is going to require too much paperwork; that is going to be a rule or regulation, it is going to be a Federal Government rule or regulation." That is going to raise costs for these particular programs.

We are talking about is patient satisfaction, patients staying in these programs: Are they satisfied with these programs? Good ones provide that. Mr. President. These are the elements that are left out of the Republican plan entirely, but even those essentially included are full of loopholes.

The Republicans say they will protect you if you need emergency room care, but they have included less than half of the protections provided by the Democratic plan or even the protections that are already included in Medicare. I wonder how many of our colleagues know that the protection that they have is the prudent layperson, prudent layman standard is an entirely different one from the one that is in Medicare. Who would have known that?

Mr. BIDEN. Will the Senator yield for a question?

Mr. KENNEDY. I will be glad to yield.

Mr. BIDEN. I know the Senator knows a great deal about this, but a day after the pitch in our Republican colleagues held hailing their Patients' Bill of Rights. You just went through and will continue to go through all the things they left out. I find it very curious the things they say are in their bill, which, in fact, are not in their leash. One, they say that a woman can pick as a primary care physician an ob/gyn. Second, they advertise that this means you have access to the emergency room. Third, they say about continuity of doctors so they say you can choose your doctor. And fourth, they say no gag rule. This is the party of gag rule, and now they say no gag rule. I kind of respected them when they were just flat out saying they were just against any of this.

Does the Senate have an explanation as to why they would pick the four most often stated complaints of the American public and suggest that their bill covers those things? It just goes to me that the party of the gag rule says they want an antigag rule, and yet there still is no antigag rule; that the party that said when they were going after Clinton's health plan, you should be able to choose your own doctor, will not allow you to choose a specialist or choose the doctor you need; that the party that suggested the costs of the Clinton plan were too high and everyone could just go to the emergency room are not, in fact, providing access to the emergency room. Or, the way in which the American public is looking at it. Why did they pick these four things to say they were for and not any of the rest? Is there some strategy here I am missing?

Mr. KENNEDY. Those happen to be the ones that have shown the highest in the polls. I am not saying that is the reason they selected them necessarily. As the Senator was going over them, I was writing them down. Those are the ones that are the top in terms of the polls.

I say to the Senator, what I would like to ask him is, here the Republicans talk about the market forces, that we ought to let people, consumers, make judgments on the basis of information. Under our proposal, we have tried to have information so that people can make the judgment and decide with regard to their health care plan. Patient satisfaction, for example, is not going to be a Federal Government rule, that is going to raise costs for these particular programs.

Absolutely not, they point out, and say: We are not going to provide or support any of that additional information because that is bureaucratic ruling; it is going to cost the HMO more to require that; therefore, we cannot support even that particular proposal.

But the Senator is quite right. They use these words, "speciality care," "emergency room," and the "gag rule." The spokesperson for the College of Emergency Physicians visited with us today. I think the Senator was there at the time. She reviewed instance after instance after instance where the words, "the protections of access to the emergency room," were vacant and empty and without the protections that are included in the Patients' Bill of Rights and resulted, in one instance, in the loss of a leg of a young child, the horrific condition of a young girl who had a serious dislocation and her vital signs dropped dramatically and was in real danger of death, and other instances that were taking place in the emergency room.

Mr. BIDEN. Well, let me say to the Senator that I, quite frankly, admired—disagreed, but admired—my Republican colleagues when they made no bones about the fact that they did not want any interference in any way by the Government to do anything about HMOs. At least theirs was a principled stand. They said, "Look, the insurance companies, in driving down costs, are more important than all these other things." We're not going to do anything.

What bothers me—and this is me; you are not saying this, I know it, but I am saying it—what bothers me is the apparent cynicism of picking four items which most often my constituency speaks to, to say they are covered, and nothing else. And even when you look into those four items, they are not really covered. They are going to be going around—and the insurance companies are spending tens of millions of dollars in ads—saying, "We want you to have the right to choose a doctor."

Wait a minute. That is what they said before. But under the Republican bill, the American people can't choose their doctor, if the doctor they happen to need is a specialist, if the doctor they happen to need is in an emergency room and they don't meet the standard that the HMO sets. I have not been nearly as involved in this debate as my friend from Massachusetts. And as the old joke goes: He has forgotten more about health care than I am going to learn. But I would
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Mr. KENNEDY. I want to take just a few moments to review this very moving testimony in terms of the emergency rooms. These are comments made by Dr. Charlotte Yeh, who is the Chair of the Federal Government Affairs Committee for the American College of Emergency Physicians. And these are comments that she made.

Mr. KENNEDY. I thank the Senator. Mr. KENNEDY. I want to take just a few moments to review this very moving testimony in terms of the emergency rooms. These are comments made by Dr. Charlotte Yeh, who is the Chair of the Federal Government Affairs Committee for the American College of Emergency Physicians. And these are comments that she made.

In Boston, a boy’s leg was seriously injured in an auto accident. At a nearby hospital, emergency doctors told the parents he would need vascular surgery to save his leg and a surgeon was ready and available in the hospital. Unfortunately, for this young man, his insurer insisted he be transferred to an “in-network” hospital for the surgery. His parents were told if they allowed the operation to be done anywhere else, they would be responsible for the bill. They agreed to the move. Surgery was performed three hours after the accident. But by then, it was too late to save his leg.

These are just episodes from the TV program, “ER.” These are not anecdotes. They are real people with real lives.

A bipartisan majority in this Congress has called for enactment of standards that will put an end to episodes like the ones I just described. Last year, the Congress adopted the prudent layperson standard and other protections for Medicare and Medicaid patients seeking emergency care. We thought there was a consensus on this issue.

There was consensus on this issue, Mr. President. Just a few weeks ago, we were delighted to see that Republican Task Forces in both the House and Senate had decided to include the “prudent layperson” standard in their respective protection measures.

But we are very disturbed about the way in which the emergency services protections should be interpreted that are required under the Patient Protection Act.” As a physician, it seems that a little unnecessary surgery was performed on the “prudent layperson” standard to the point where it is no longer recognizable as the consumer protection we envisioned.

What is the difference between the real “prudent layperson” standard included in the Democratic “Patients’ Bill of Rights” and the “imposture” that has been included in the GOP “Patient Protection Act”? The GOP Patient Protection Act would establish a weaker coverage standard for privately insured patients than what exists for Medicare and Medicaid patients.

It gets back to what they are talking about. The name of the legislation—Senator Daschle—they take the various code words going down the line. They took the “prudent layperson” definition, and then they altered and changed it. It is the emergency physicians that I am reading from.

The GOP Patient Protection Act establishes a weaker coverage standard for privately insured patients than for the Medicare and Medicaid patients. The Democratic bill will provide the same protections for all patients.

The GOP Patient Protection Act establishes a two-tiered test for coverage of emergency services and guarantees coverage only for a “screened and reasonably anticipated” emergency. The Democratic bill would require that health plans cover all services necessary to evaluate and stabilize the patient to anyone who meets the “prudent layperson” standard.

The GOP Patient Protection Act sets no limits on the amount of cost-sharing for the managed care plans that would be allowed to charge patients who seek emergency services from a non-network provider.

Don’t you think we ought to be able to discuss that on the floor of the U.S. Senate, to see which way this body wants to go on that particular protection for emergency rooms, for consumers of this country? No. We can’t—evidently, we are not going to have a discussion. We haven’t got time to be able to ask our Republican friends, Why did you do it this way? Why did you change it? Why did you change it?

Well, I think it is quite clear why they changed it, because the insurance companies wanted them to change it. The GOP Patient Protection Act sets no limits on the cost-sharing.

The Democratic bill would protect patients who reasonably seek emergency services to protect their health from being charged unreasonable copays and deductibles. We protect the consumer.

TheGOP Patient Protection Act sets no guidelines for the coordination of poststabilization care, making it possible for emergency physicians to coordinate and obtain authorization for necessary follow-up care with the managed care plans.

The Democratic bill would require the health plans to adhere to new Federal guidelines that require managed care plans to be available to coordinate poststabilization care, instead of just permitting the managed care plan to turn off the phone at 5 o’clock.

And I continue now with her statement: we are very troubled by the changes to the “prudent layperson” standard in the “Patient Protection Act.”

Our assessment is that this legislation—

Now, these are the emergency room physicians. There isn’t a family in this country that does not have some concern—they have children or parents; loved ones—about the importance of having an emergency room that is there to look after what is going to affect the family. And there isn’t a person that is listening to this program, watching it, that has not had to spend time in an emergency room themselves or their loved ones in a family.

It is very important. And what is happening out there with regard to HMOs, in too many instances, is that they are putting the interests of the insurance industry ahead of the emergency needs of the patient. That isn’t what I am saying, although I think it is what the emergency room doctors are saying.

This is their final assessment:

Our assessment is that this legislation—

[1.] Will provide less protection for privately insured patients than for Medicare and Medicaid patients.

[2.] Will lead to more coverage disputes, not less. [Do we hear that—will lead to more coverage disputes, not less.]

[3.] Will create even more barriers, not fewer.

[4.] Will create new loopholes for managed care plans to deny coverage of emergency services.

These are the doctors who are dedicated and committed to providing...
emergency services to the people. That is their assessment, and we are not going to be permitted to debate and discuss the impact of the Republican bill on the patients of this country as compared to our Patients’ Bill of Rights, which was denied that opportunity, Mr. President?

In four years, we have come so far, but we cannot support these provisions in their current form. We will do everything in our power to ensure the ‘prudent layperson’ standard that is enacted will be consistent with the meaningful protections that Congress enacted for Medicare and Medicaid beneficiaries working Americans who pay their premiums deserve no less.

Now, Mr. President, I will conclude in just a moment. I want to sum up where I think we are in this whole experience. During recent years, we have seen a very dramatic shift from the indemnity health care provisions to the HMOs. We have seen the ERISA provisions that were developed in the early 1970s which exclude liability protections for American consumers. Those particular provisions were developed to protect pensions—it wasn’t really thought about in terms of the application of those provisions of the law in terms of health care plans. If you go back and read the discussion on the debate, it wasn’t really considered. It was there to protect pensions, and it has worked reasonably well to protect pensions.

It hasn’t worked to protect the patients in these programs. Nonetheless, we have seen the growth of the HMOs. And we have some outstanding health maintenance organizations. We have some of the best in my own State of Massachusetts. The basic concept behind the HMOs was to try to change the indemnity health care plans to more a capitation program that is, that is a certain payment for an individual; if they keep them healthier, then the HMO’s financial situation improves. That made a good deal of sense.

In the better HMOs it works, and it works effectively. The problem is you find the HMOs, where I think we are in this whole experience, saying we will pass it this year. One, I regret maybe some of the tone that was taken. I have said previously, and I think we have had a task force that met for a month on it. I heard him say it is the Democrat proposal, they only affects 48 million Americans and exempts two-thirds. That is absolutely not correct. The facts are, every single ERISA-covered plan, every single employer-sponsored health plan in America would have an appeal process. It is a different process than our colleagues on the Democrat side have followed, but for a good reason. We don’t want to drive up health care costs.

What we want to do is make sure people who are denied care will have an appeal to where they can get health care—not that they have to go to court to get a health care decision—so they can have an appeal through an outsider who has nothing whatever to do with their case and have it be reviewed immediately or expeditiously if there is a serious health care problem. They can even have an outside appeal. We put in “binding decision” on the outside appeal. The decisions would be binding. The plan would have to pay if the appeals were upheld.

One, I regret maybe some of the tone some of the debates that have been made. I am very interested in trying to come up with a reasonable time agreement to take up this legislation. We have offered to do that. We have offered to give a vote on both the Democrat and the Republican proposals. I understand my colleague wants more time. He probably would like to spend a month on it. I heard him say it is the most important legislation we have before the Senate. I think I heard him say the same thing about the tobacco legislation. We spent 4 weeks on tobacco legislation, and we are not going to spend 4 weeks on this. The Senate is scheduled to be in session about 5 additional weeks, so we don’t have the luxury of time that maybe we have had in the past.

My colleague from Massachusetts made the comment and said we tried to bring this in 3 months ago. That is not correct. His bill was introduced on March 31. Three days later, he was trying to pass a sense-of-the-Senate resolution, saying we will pass it this year. We have agreed to bring it up this year. We have agreed to give it adequate time for debate. We have not agreed to spend an unlimited amount of time on this.

I want to respond to a couple of the statements that were made concerning the Republican proposal. Much to my chagrin, I had hoped my colleague, and colleagues on the other side, would try to find out what is good and maybe see where we can move forward, but instead who are dead set against it. I resent that, or I regret I—guess regret would be the more proper terminology. We have 49 cosponsors of this legislation. We had a task force that met for months, 7 months, to formulate positive, constructive health care legislation, legislation that would help alleviate some of the problems in the health care industry, legislation that would help protect those people who don’t have protections in health care.

What I heard my colleague say, their plan only affects 48 million Americans and exempts two-thirds. That is absolutely not correct. The facts are, every single ERISA-covered plan, every single employer-sponsored health plan in America would have an appeal process. It is a different process than our colleagues on the Democrat side have followed, but for a good reason. We don’t want to drive up health care costs.
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care plans very quickly and you will have an increase in the number of uninsured that will be in the millions. You will also have costs. CBO estimated that the Democrat bill would increase health care costs by 4 percent over current policy, already estimated to cost, at 5.2 percent. That is a 9.2 percent cost increase if we enact the Democrat bill. That would cause millions of people to lose health insurance. I don’t think that is smart.

So I want to just make sure that our colleagues are aware of the fact that we are willing to have a significant, credible debate. We are willing to consider various alternatives. We are not willing to get an unlimited amount of time. Earlier, my colleague had offered his bill on an appropriations bill. I said it didn’t belong there. Maybe we should have left it there. We could have offered some substitutes.

One of our concerns, we are going to take up this issue. It is our intention to take it up prior to the August break. That is the majority leader’s call. We understand that we have a lot of appropriations bills to do, and that must be done. Our colleagues on the Transportation Committee are ready to go to work. I won’t delay them much longer. We will have adequate time to debate the pros and cons of this bill.

I heard some other allegations—that they don’t do anything. The Senator from Delaware said, “They have all this lip service. They provide for emergency care, gag clauses, and access, direct to OB/GYN and pediatrics, but that doesn’t do anything.” I disagree. We protect the unprotected. We don’t have the philosophy that we should preempt States who are, in many cases, doing a better job than the Federal Government. There is a presumption on the Democrat side that the Federal Government can do it better than State government. Let’s protect the unprotected, cover the plans that don’t have protections often by the States.

My State has 24 mandates. They have a lot of things that aren’t in the Democratic plan or Republican plan, and they are doing quite well. They are considering many more. Most States are looking at the Democrats’ Bill of Rights, and 36 States have already enacted several others, and 45 States already have a gag clause. Maybe some people think Washington, DC, should decide what kind of communication should or should not be made by physicians, and so on.

My point is, I think we have tried to craft a very careful, balanced, good proposal that won’t escalate costs, that won’t have mandates. The Democrat proposal has 359 mandates. Maybe instead of calling it the Kennedy bill, the Patients’ Bill of Rights, they should call it the Kennedy bill of mandates, because it is this idea that the Government in Washington, DC, should dictate everything.

So I look forward to the debate. I look forward to resolving this issue and trying to come up with a good, responsible bill that won’t drive up health care costs, that won’t add layers and layers of bureaucracy and regulation and red tape, that won’t really deter quality health care.

I compliment Senator Collins, Senator Frist, Senator Jeffords, and others who worked to put a lot of quality provisions in this health care, whether you are dealing with women and health care, trying to get research out to States and rural areas that would really improve quality health care—not a Federal definition that we know best, but trying to really advance technology and get that information to patients, to various areas around the country that would actually improve the quality of health care in America today.

I thank my colleagues who are managing this bill. I hope they will have success in moving this bill forward. I look forward to the debate and, hopefully, a debate next week on the so-called Patients’ Bill of Rights.

Mr. JEFFORDS addressed the Chair. The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ZAAZHOA CASE

Mr. JEFFORDS. Mr. President, I rise today to share some great news and to give thanks to the Members who helped me with respect to this very emotional situation that we have dealt with. I want to share the great news that three young Vermont girls who were abducted to Egypt are now back. I want to thank my colleagues for their support in this case for signing a letter to urge their return to Vermont. I also want to thank the Egyptian and American Governments for their invaluable assistance.

Last October, anticipating a Vermont court order giving his wife sole custody of their three girls, Michael Zaazhoa took Sarah, Maryam, and Leila under falsified passports and fled to Egypt. Lamis Zaazhoa began the frantic search for her girls, ages 3, 5, and 6, which took 9 months, and culminated in a joyful reunion at the U.S. Embassy in Cairo this past Friday.

Lamis listened to the wise counsel of her family and decided to go the long, arduous route of petitioning the Egyptian courts for sole custody of her children under Egyptian law and getting an Egyptian court order for the return of her girls. The Vermont delegation quickly swung into action in support of her efforts, enlisting the help of the U.S. Embassy in Cairo and the Egyptian Embassy in Washington.

After the Egyptian courts ruled squarely in Lamis’s favor, I walked around the Senate floor with a letter from Senator Leahy and me to President Mubarak of Egypt, asking for his support. Fifty-five of my colleagues signed this letter. I am deeply appreciative of my colleagues help, which I give to them now for all of their efforts. And I am very grateful to the Egyptian Embassy and Egyptian Government for its help in ensuring that Egyptian law was enforced and the girls were returned to their mother.

The staff of the American Embassy and the Egyptian Embassy worked to ensure the swift return to the United States of Lamis and her girls once they were reunited.

I wish I could have invited all of my colleagues to the wonderful meeting Senator Leahy and I had with these three sweet girls yesterday! Their beautiful smiles and the joy on Lamis’s face deeply touched the hearts of all those present. In difficult situations like these, we rely on our consular offices of our Government, and the cooperation of our friends in foreign governments.

So, again, I thank all the Members for their helpfulness in getting the three sweet girls back to Vermont.

I thank the Chair.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. SHELBY. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. 2307, the transportation appropriations bill. The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk read as follows:

A bill (S. 2307) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, in putting together the Fiscal Year 1999 Transportation Appropriations bill, we were faced with the difficulty of trying to adhere to the spending levels in the new highway and transit authorization bill and still provide adequate levels of funding for other transportation priorities. We have done that in this bill, and I think it represents a balanced approach to meeting our nation’s transportation needs. I want to thank the Chairman of the Committee on Appropriations Senator Stevens, for all his assistance and advice as we put this bill together and moved through sub and full committee consideration.

We have also worked diligently with the senior Senator from New Jersey,
Senator Lautenberg, the ranking minority member of the subcommittee on transportation appropriations, and with the distinguished ranking member of the Committee on Appropriations, Senator Byrd, to try to accommodate the requests of every Member of the Senate. Not on anything they asked for, but I think as Members look at the details of the bill, they will see that we did our best, with the limited resources we had, to accommodate everyone's request.

I want to outline just a few highlights of the bill, if I may.

The Airport Improvement Program is set at $2.1 billion for 1999, the highest level ever. This funding will expand the capacity of our Nation's airports, reduce delays and congestion, and, most importantly, it will improve aviation safety in America. As the demand for air travel increases, we must ensure that our airports are able to efficiently handle traffic that will come with it.

Highway spending not only improves safety but also will provide good jobs for thousands of Americans. I believe we have adequately funded both the Coast Guard and the Federal Aviation Administration operations accounts, and we have provided increased flexibility for the Secretary to manage both operations accounts to meet air traffic control and drug interdiction demands.

I am pleased that we were able to fully appropriate the authorized levels for the National Highway Traffic Safety Administration. That agency's funding in recent years has not increased over last year and will aid in their efforts to conduct airbag research, develop automatic crash avoidance technologies, and improve seat belt use, and also reduce drunk driving on our highways.

The Federal Transit Administration will receive $5.365 billion, an 11 percent increase from 1998. These funds will be used to build new light rail transit systems, replace dilapidated public buses, and construct intermodal facilities to speed the flow of people from one transportation mode to another.

Regarding Amtrak, the bill provides an additional $555 million on top of the $1.1 billion Amtrak will receive from the Taxpayer Relief Act that we passed last year.

My concerns about the level of Federal subsidies for Amtrak are well known in this body. Since the railroad was created in 1971, Amtrak has received $21 billion in Federal support. That is an average of $750 million a year. Mr. President, that is a disproportionately high level of subsidy for a railroad that only serves 20 million intercity passengers every year. Mr. President, by way of comparison, 600 million Americans fly every year. This means that more people fly in a 2-week period than ride Amtrak over the course of the year. The bill before you this evening contains a provision requiring the passenger subsidy on each Amtrak ticket sold. According to the GAO, Amtrak loses an average of $47 per passenger. I think the American people have a right to know how their tax dollars are being spent.

Finally, Mr. President, let me comment on the Project Labor agreement provision. At full committee consideration of the transportation appropriations bill, the chairman requested that we postpone the debate on this provision until the floor. I believe that the chairman's position to postpone this debate until the floor made sense. And I know that he has been working to resolve this issue in a fashion that will allow the appropriations bill to move expeditiously through the Senate. I will continue to work with the chairman and with Members on both sides of this issue to see if we can craft a solution that is workable for everyone involved.

The intent of the original language in the bill was to prohibit discrimination against any worker in this country simply because he or she chooses not to join a union.

Mr. President, I am proud of what we have been able to accomplish in this bill. I believe it will benefit all Americans by improving transportation services in this country. I look forward to working with the members of the committee and the Members of the Senate to move this bill through the Senate.

Mr. Lautenberg addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from New Jersey, Mr. Lautenberg. Thank you, Mr. President.

Mr. President, I am obviously pleased that the Senate has now turned to the consideration of the transportation appropriations bill. It has been some time in coming. And action on the transportation bill has been delayed for several weeks while the committee sought to resolve some of the challenges that arise when there are vital interests that need to be met with too few resources to meet them.

Mr. President, I first ask unanimous consent that Peter Rogoff, a member of my staff, be permitted privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Lautenberg. Thank you, Mr. President.

Mr. President, it is always interesting, to me anyway, that when we get to something like transportation and we start talking about the numbers and how much we are able to spend on highways and aviation, on buses, and rail, whatever we do, we still fall short on this country's needs for investment in infrastructure.

There isn't a Senator here who doesn't come to Senator Shelby or me during the time of the negotiations and say, 'We need more.'---and who wants to invest in infrastructure. They want to get rid of the potholes, get rid of the obsolete bridges, update our system.

I know I speak for the chairman of the subcommittee, Mr. Shelby, with whom I have the pleasure and opportunity to work---Senator Shelby and I have known each other for some time. He is a man with specific opinions on things. I could be described as a 'pussycat'---I don't think so. But we have our differences on the table, and we work to resolve them. There is one thing in this relationship, and that is mutual respect. I want to say today that Senator Shelby has not only exceeded the Northeast subcommittee in its interest in resolving issues, getting rid of the problems, and getting on with the task. Between us, I think we have a pretty good piece of legislation.

For me, one of the greatest challenges that we faced was that Amtrak. In the course of the negotiations, the key issue of Amtrak was finding the funds for Amtrak. Senator Shelby, as is his wont, spoke out about his views on Amtrak. But he has respect for others' views---for those people who see Amtrak as an integral part of the transportation system in this country, an essential part of the system.

While he is concerned about the amount of subsidy that Amtrak is getting from the Federal Government, it is also bidding its way towards self-sufficiency. Until we have the proper kind of equipment that attracts riders, that can make the trip---and the trips are made in faster times, particularly in the Northeast---but also agree in just the few States that Amtrak goes through with probably 100 million people, it is a significant part of the population in the country. Yes, it requires subsidy, but so does aviation.

The subsidies go beyond the 40,000 million intercity passengers every year. What we are saying to the people who see Amtrak as an integral part of the transportation system in this country, an essential part of the system.

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for the benefit of those who are listening not familiar with it, the Northeast corridor is that corridor of traffic between Washington here in the South, and Boston on the northern run, with New York and Newark as the intermediate way.

Well, if we can get that ride down—and I think that we can—to less than 2½ hours, I can tell you, Mr. President, I have been out at the airport many times to take a flight that was advertised as 40 and 45 minutes, and it has taken 3 hours. It is not because the airplane is slow. It is that it’s so crowded we can’t get off the ground. And sometimes I find when I land in the Newark area we have to wait 30, 40 minutes to get to a gate. We are straining at the seams. And if anybody rides the highways of America they know there is plenty of congestion. I don’t care what State it is, you will find a place in those States where highway congestion is unbearable, the air is foul, it is consuming far more fuel than we ought to because we are building a further dependence on the countries outside our shores that produce it.

And so this investment in Amtrak is one that is going to be made to get us to be able to take delivery on the high-speed equipment which is due next year, 1999.

I thank Senator STEVENS, the chairman of the committee, and Senator BYRD, the ranking member of the full committee, as well as, again, Senator SHELBY, the chairman of the Subcommittee on Transportation, for helping us to find an acceptable funding level for Amtrak, and I also thank them for their patience throughout the process.

The Transportation Subcommittee faced a real daunting challenge in constructing a bill that kept faith with the promises included in the recently enacted legislation. Equally important is that the transportation program for the next half dozen years for the 21st century. It is a beginning into the 21st century, and with our infrastructure investment, as modest as it is, I can’t say that it is one of America’s proudest achievements because we are woefully underfunded, but it is a good start in the 21st century and I am looking forward to building on that.

The TEA 21, as it is referred to in acronyms, authorized substantial increases in our surface transportation programs, and this appropriation bill includes a historic 15-percent increase for funding for the Federal Highway Administration, and an 11-percent increase in funding for the Federal Transit Administration. Separate from these well-deserved increases in the surface transportation bill, the bill seeks to meet, to the best of our ability, the needs of the FAA.

You heard about just now, the fact that crowding in traffic is not an insignificant factor. If you want to fly into the New York area, or you want to fly into the Chicago area, the significant metropolitan hubs across our country, you have to share that space, and if the weather turns foul you wait forever. We could upgrade the system. There are other countries that have systems where takeoffs and landings are done mechanically, with the concurrent advantage of making it safe. The pilot has to be there, but that airplane can touch down safely when you can’t see the ground. I know I have been in a couple of flights like that, and it is always a shock when you don’t see something and you feel that hard ground beneath you is really near.

That is what we ought to be doing. We have to invest more in all of our transportation modes and aviation as well. The Coast Guard is one incredible agency. We ask so much of the Coast Guard. We not only have them out doing drug interdiction, which is a very popular part of their agenda, but if one looks at the marine system that we have in our country, the development of boating, fishing, the whole recreational part of our life, there is no safety system there because the Coast Guard manages it. They put out the buoy markers. I know sometimes I get lost out there, so I can tell you that they are there. It is not that they have moved. It is that I haven’t been able to find them properly.

It is an incredible system. And on top of that, they do pollution patrol; they do a patrol to try to intercept illegal immigrants when we want to get to this great country of ours and we are willing to risk their lives to do it, sometimes in tire tubes out in the ocean. The Coast Guard is there to provide interdiction, but also humanitarian service as well. And when it comes to rescues at sea, boy, there is nobody better than the Coast Guard. They know how to do it. They put out the buoy markers. I know one of the complaints in some of the northern areas is they don’t have enough icebreaking equipment, for instance. We get it sometimes from the Defense Department.

So, when you put all these needs together, it is not an easy challenge. I say, once again, Chairman SHELBY and his staff, Wally Burnett, Reid Cavner and Joyce Rose, do a terrific job, as do the people on my side. Peter Rogoff and Liz O’Donoghue—I mentioned before Peter Neffenger—and Carole Geagley, for the job the staff has done.

The staff has worked very hard. I don’t think it is realized outside that by no means are these 9 to 5 jobs. Yes, they are. I am sorry. They are 9 at night to 5 the next morning. That is the kind of jobs they are. They work time off to sleep, go home, meet their family, raise their child. They get to their newborns, get breakfast—the work requirement is beyond comprehension, in many cases. But it gets done, and I am proud of what we did this year.

Mr. President, as Members are aware, and the chairman brought it up, the bill as reported by the Appropriations Committee contains an extremely controversial rider. It is something regarding Project Labor agreements. The provision effectively wanted to stop labor-management agreements that have served successfully for years to hold down construction costs and improve working conditions. Imagine on those occasions, which are too few, where management and labor shake hands across the table, no longer could they say, “These are the conditions we are going to be working under. This is what you can expect from us, and this is what you can expect from us; we are going to bridge our differences now, before this job starts. We are going to decide on things like pay scales and work schedules and health care—all of those things. We are going to decide together on the schedule that we want to meet. We want to be proud of this job when it is done.”

The chairman of the Appropriations Committee used a reference. He said in the Alaskan pipeline they had an agreement that saved billions of dollars, because everybody understood exactly what their responsibilities were and there was no room for work stoppages or things of that nature. It is a system that works. Why some people felt it was time to stop it, I don’t understand. But I respect the differences that they have here.

The issue was discussed at length during full committee markup of the bill. As Senator SHELBY noted, Chairman STEVENS asked us to defer this until we get to the floor and get this bill out there so Senators can see it and understand what we are doing. We did just that, and the result is we have a compromise that Senator STEVENS sought to develop that would allow the bill to move forward and gain the President's signature.

The Senate, SHELBY and others involved, Senator KENNEDY from Massachusetts, and I, agreed this was a consensus with which we could live. I am delighted that took place so we did not have to wrangle over it. We want to get this bill in place so when the new year starts, October 1, we are ready to go with the new spending levels and new programs.

Once we have concluded our opening remarks, we are going to adopt the manager's amendment that encompasses a compromise on this issue, so all parties are agreed they will live with it. I thank my colleagues for their efforts in reaching this compromise.

In closing, I want to express my view that the most important funding in this bill is not for any individual project or any individual State. The most important funding in the annual transportation appropriations bill is the taxpayers’ dollars that we commit to maintaining safety that is our national transportation network.

Safety in the skies—we know we are crowded, we know we are busy, and we
know there is a terrific strain on the staff who maintain the aviation sys-

tems, the controllers, those in the tower-

ders and those in the service routes
along the way. They do a terrific job.
One need only look at the accident

times we get into rage here, but we

would be able to do that.

Safety on our waterways—again, the

Coast Guard is there marking out

routes. It is just a terrific facility that

we have.

So, safety is the No. 1 priority of my

agenda. It is the No. 1 priority for the

Secretary of Transportation, Secretary

Slater, and for the President of the

United States. He talks about it a lot.

And Senator Shelby indicated he is in-

terested in so many different areas.

I am hoping one day we will be able to

shave up our .08 blood alcohol level

bill. We passed a bill that goes part of

the way, but we have to go further in

order to make it complete. The worst

thing that can happen to a family is to

lose a young person, to an automobile accident when we try so

hard to bring them up, to raise them

and encourage them, and then have

somebody get in a car where someone

has been drinking too much and end

their life.

We are focused on safety. We are
going to do that. I cannot overempha-
size the responsibility that every Sen-

ator has in ensuring our transportation

laws protect the safety of our traveling

public to the maximum extent pos-
sible. The fate of the traveling public is

truly in our hands each and every day.

During the up and coming debate we

are going to discuss a number of amend-
ments that are critically impor-
tant to the safety of our constituents.

With that, I yield the floor to my col-
excellence. We are ready to consider

amendments and start with the man-
agers' amendment.
The PRESIDING OFFICER. The Sen-
ator from Alabama.

Mr. SHELBY. Mr. President, first of all,

I thank the distinguished Senator from New Jersey for his kind remarks,
because we do work together on a lot of

issues, not only in the Appropriations

Committee but also we both serve on the

Intelligence Committee and spend a

lot of time generally behind closed

doors. He is an active member of that

commitee, too.

AMENDMENT NO. 3324

(Purpose: An amendment on the part of the

Managers.)

Mr. SHELBY. Mr. President, I send

an amendment to the desk and ask for

its immediate consideration.

The PRESIDING OFFICER. The clerk

will report.

The assistant legislative clerk read as follows:
The Senator from Alabama (Mr. SHELBY), for himself and Mr. LAUTENBERG, proposes an amendment numbered 3324.

Mr. SHELBY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without

objection, it is so ordered.

The amendment as follows:

On page 19 of the bill in line 2, strike ": Provided, That $3,000,000 shall be transferred to the Appalachian Regional Commission"

On page 26 of the bill, in line 15, insert the following before the period: "Provided further, That of the funds provided under this heading, $5,000,000 shall be made available for grants authorized under title 49 United States Code section 22901.

On page 20 of the bill, in line 17, after the colon, insert: "Provided further. That within $50,000,000 shall be made available to the U.S. Army Corps of Engineers to determine the feasibility of providing reliable access connecting King Cove and Cold Bay, Alaska and $1,500,000 shall be available for improvements to the Crooked Creek access road in the Charles M. Russell National Wildlife Refuge, Montana."

On page 28 of the bill, amend the figure in line 5 to read "7,500,000".

On page 44 of the bill, insert at the begin-

ning of line 1 the following: "New York City, NY Midtown tunnel"

On page 51 of the bill, insert after line 19 the following: "Whittier, AK intermodal fa-
cility and pedestrian overpass."

On pages 88 and 89 of the bill, strike all of

section 336 (lines 16-24 and lines 1-10).

On page 88 of the bill, in line 18, after the

semicolon insert the following: "(3) subsection number to read "(4)".

On page 90 of the bill, in line 1, after the

obstruction of line 2 the following: "New York City, NY Midtown tunnel"

On page 150 of the bill, in line 18, after the

phrase "Columbia County, NY Midtown tunnel"

amendment be dispensed with.

The PRESIDING OFFICER. The Sen-
atior from New Jersey.

Mr. LAUTENBERG. If I might, I

knew we constructed a good bill. I
didn't realize it was this good. But the

fact of the matter is I guess we covered
everybody's requests fully. But we

should wait to see if any of our col-
exeagues want to come down to the floor

and commend us for it.

Otherwise, I think we are seriously

reducing it. I am feeling a little light-

headed because we haven't heard a lot

of criticism. But the bill is here. If

there are people who want to amend it

in any way, let them come down now or

forever hold their peace, or some-

thing.

Mr. SHELBY. Mr. President, I sug-
gest the absence of a quorum.

The PRESIDING OFFICER. The clerk

call the roll.
The assistant legislative clerk pro-
ceded to call the roll.

Mr. LAUTENBERG. Mr. President, I

ask unanimous consent that the order

for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so

ordered.

Mr. LAUTENBERG. Mr. President, I

ask unanimous consent that a fellow in

Senator Bingaman's office, Mr. Dan

Alpert, be given floor privileges during

the pendency of the transportation ap-

propriations bill.

The PRESIDING OFFICER. Without

objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I

suggest the absence of a quorum.
The PRESIDING OFFICER. The clerk will call the roll.
The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the call of the roll be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Thank you.

**OCCUPATIONAL AIR QUALITY TESTS IN COAL MINES**

Mr. WELLSTONE. Mr. President, I rise today to call to the attention of colleagues a disturbing set of circumstances and facts which I believe merit investigation and probably legislative action on the part of the Senate.

I also believe that the facts I am about to discuss warrant more attention than they have received so far from the Justice Department.

There is evidence of significant violation of Federal law leading to great harm. I hope that in addition to the Congress responding appropriately, the Justice Department might look further into this matter.

I am referring to what appears to be a record of widespread systematic cheating on occupational air quality tests by operators of many of our Nation's coal mines. This alleged cheating, of which there appears to be nearly incontrovertible evidence, apparently has led to much unnecessary suffering in thousands of American families. It likely also has led to the unnecessary death from black lung disease of thousands of American coal miners.

Unfortunately, I am not referring to conditions that existed early in this century, or even conditions of the 1950s or 1960s. I am talking about circumstances of the 1970s, 1980s and 1990s. I am talking about allegations related to extremely dangerous conditions and practices in American coal mines today.

I ask unanimous consent, Mr. President, to have printed in the RECORD a series of articles that appeared in April of this year in the Louisville Courier-Journal.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

**FROM THE EDITOR**

For years, a quiet but deadly tragedy has been played out in the nation's underground coal mines.

Coal mine operators have known about it. The federal government has known about it.

And coal miners themselves have known about it.

The tragedy is that in 1998 black-lung disease still exists and hundreds of miners nationwide die of the disease each year because of cheating on air-quality tests.

Doctors have known for a century that coal dust causes black lung, which can be prevented through underground dust-control measures.

But 30 years after Congress placed strict limits on airborne dust and ordered mine operators to take periodic tests inside their mines, almost 1,500 miners die of black lung every year.

The Courier-Journal set out to find out why.

The answers were shocking.

In a year-long investigation that involved interviews with 255 working and retired miners and computer analysis of more than 7 million government records, The Courier-Journal found things no one expected:

- Miners continue to breathe dangerous levels of coal dust because cheating on dust tests is rampant.
- Most coal mines send the government air samples with so little dust that experts say they must be fraudulent.
- Miners help operators falsify tests to protect their jobs.
- Many mine operators—union and non-union mine operators in particular—don't comply because strict adherence to safety regulations is time-consuming, costly and cuts into profits.

Nearly every miner interviewed said that cheating on dust tests is common and that many miners help operators falsify tests to protect their jobs.

And almost no coal miners qualify for black-lung benefits under Kentucky's new workers' compensation law.

Since publication of the series, Kentucky's attorney general has asked U.S. Attorney McAteer to investigate why mine-safety officials have ignored evidence of cheating. And state lawmakers have called for a special session to adopt new legislation to prevent miners from falsifying tests.

We think this piece of work represents outstanding public service journalism in the finest tradition of The Courier-Journal.

Mr. WELLSTONE. That is the newspaper of Louisville, KY.

This remarkable series of five articles, principally by a reporter named Gardiner Harris, is titled "Dust, Deception and Death." The series documents an apparent pattern of falsification of coal dust sampling tests by coal mine operators.

The consequences of that dishonesty: unnecessary suffering and early death for American coal miners.

It is an extraordinary report. I do not believe it has received enough attention, although hearings have been taking place at the state level in Kentucky to look into the charges.

The paper conducted a year-long investigation. Hundreds of current and former miners were interviewed. More than 7 million government records were examined. Based on that research, the Courier-Journal's reporters concluded that cheating on air-quality tests in coal mines has contributed to great suffering and to a large number of deaths from black lung disease.

Doctors have known for a century that coal dust causes black lung, which can be prevented through underground dust-control measures.

The deeper shame is that we in the Federal Government have had the opportunity to know it, yet so far we haven't done very much about it. Dedicated people in the appropriate Federal agencies, the Mine Safety and Health Administration (MSHA), are beginning to address this problem.

J. Davitt McAteer, who is the Assistant Secretary for MSHA, has begun during recent years to take a number of steps, and he has called for further steps beyond those he has taken. But we still are not doing enough.

Before I cite some details from the series, I would like to read a portion of the newspaper's editorial on this subject into the RECORD. This Louisville Courier-Journal editorial, printed on Sunday, April 19, is headlined, "Death and Denial." It begins as follows:

"Coal is an outlaw industry. It is now, and it always has been. Coal is the closest thing to brute, unrepentant late 19th Century capitalism that we have left in American life. If you don't believe that, just consider the fact that the ranks of miners choke to death every year because coal operators routinely cheat.

The deeper shame is that the sufferings of miners continue to be inexcusable in a nation that spends billions a year on crime and drug enforcement. If you don't believe that, just consider the fact that the death toll of miners has been on the rise since the heyday of legal, underground coal mining.

And almost no coal miners qualify for black-lung benefits under Kentucky's new workers' compensation law.

Coal is the killer of coal miners, just as it has been for a half-century.

That is not the conclusion of some outside group of hostile critics of the coal industry. It is the editorial position of a major newspaper in the state of Kentucky, where that industry remains important to the economy. Let me recite the conclusion of that same editorial:

"One of the nation's underground mines get cited for excessive dust. And those are just the operations that are caught in the flawed, sporadic dust tests. Miners are more than exhausted with this continuing ordeal. They're dying."

Mr. President, every article in this series warrants reading in its entirety. There are some sad and shocking quotes from former foremen in the
mines, as well as from miners themselves about their own roles in test falsification. There are heartbreaking profiles that illustrate the human consequences of this reality. Men who are suffocating to death, whose lungs are destroyed, not even enough to walk the two steps at their home without stopping and gasping for breath. I hope Senators will read the story of Leslie Blevis, 45-year-old former coal miner who is dying of silicosis, a form of black lung. I hope Senators will read the story of Terry Derry, who died in 1995 of black lung disease.

Let me try to summarize some of the series’ important findings.

The first and most important conclusion of the series is that coal miners today continue to breathe hazardous amounts of coal dust because falsification of dust sampling is still widespread. In 1972, strict dust limits in coal mines went into effect. That was a result of the 1969 Federal Coal Mine Health and Safety Act. Today, under that Act, every two months, operators of underground coal mines have to test the air in the mines for dust. They use air pump machines attached to certain of the miners’ belts to collect samples. Then government laboratories weigh the amount of dust collected in those machines’ plastic cassettes. Also, in addition to weighing the dust cassettes once they have been turned in, Federal government supervisors actually oversee the company-conducted testing on one occasion per year.

How is the Federal dust-sampling program working? Not very well. In fact, the dust-sampling program, crucial as it is, today is a big part of the problem. Numerous miners, former mine owners and managers told the Courier-Journal that the sampling is routinely falsified. “Most of the time, we just turn them off,” one miner said of the machines. Many miners described how the pumps often were hung where the air was clear of dust, or placed in lunch buckets. Some are run outside the mines or not at all.

According to the newspaper’s reporting, in 1997, about half the nation’s underground coal mines, at least 15 percent of the air samples taken were almost completely dust-free. It is virtually impossible for those tests to have been accurate, according to experts, government supervisors, and miners themselves about their own roles in test falsification. There are heartbreaking profiles that illustrate the human consequences of this reality. Men who are suffocating to death, whose lungs are destroyed, not even enough to walk the two steps at their home without stopping and gasping for breath. I hope Senators will read the story of Leslie Blevis, 45-year-old former coal miner who is dying of silicosis, a form of black lung. I hope Senators will read the story of Terry Derry, who died in 1995 of black lung disease.

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The first and most important conclusion of the series is that coal miners today continue to breathe hazardous amounts of coal dust because falsification of dust sampling is still widespread. In 1972, strict dust limits in coal mines went into effect. That was a result of the 1969 Federal Coal Mine Health and Safety Act. Today, under that Act, every two months, operators of underground coal mines have to test the air in the mines for dust. They use air pump machines attached to certain of the miners’ belts to collect samples. Then government laboratories weigh the amount of dust collected in those machines’ plastic cassettes. Also, in addition to weighing the dust cassettes once they have been turned in, Federal government supervisors actually oversee the company-conducted testing on one occasion per year.

How is the Federal dust-sampling program working? Not very well. In fact, the dust-sampling program, crucial as it is, today is a big part of the problem. Numerous miners, former mine owners and managers told the Courier-Journal that the sampling is routinely falsified. “Most of the time, we just turn them off,” one miner said of the machines. Many miners described how the pumps often were hung where the air was clear of dust, or placed in lunch buckets. Some are run outside the mines or not at all.

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HHS Appropriations bill that we will provide adequate funding to MSHA to do more testing. The companies have shown that they will not carry out accurate tests. At the same time, I do not believe that we should simply increase our offering to MSHA and meanwhile take the companies off the hook. The companies should continue to test, as well, and they must be held thoroughly accountable for their results. A more rigorous testing and monitoring program will both improve the accuracy of the test results, and it would also help us identify more of the individuals and companies that are cheating on the tests and endangering the health of miners.

MSHA already has increased its spot-inspections of mines that have turned in tests with suspiciously low dust levels. The agency should go further, and they should have the resources to ensure that they are able to go further. I believe Federal enforcement agencies should consider whether increased criminal and civil prosecution is warranted for what appears to be the systematic circumvention of the Mine Safety Act. By enforcement agencies I am referring to MSHA and the Department of Justice.

The number of criminal proceedings has been low if the claims asserted in the Louisville newspaper series are correct. Between 1980 and early 1997, there were 96 cases over a 16 year period, or about six a year. It is my understanding that very few, if any, of that small number of successful prosecutions were for the kind of cheating documented in the newspaper series. If cheating on dust sampling, which endangers people's lives, is as widespread as it has been alleged, then I believe Federal enforcement agencies should consider whether increased criminal and civil prosecution is warranted. By enforcement agencies I mean the Federal government for violations in the area of coal mine safety and health. That is 96 cases over a 16 year period, or about six a year. It is my understanding that very few, if any, of that small number of successful prosecutions were for the kind of cheating documented in the newspaper series. If cheating on dust sampling, which endangers people's lives, is as widespread as it has been alleged, then I believe Federal enforcement agencies should consider whether increased criminal and civil prosecution is warranted. By enforcement agencies I mean the Federal government for violations in the area of coal mine safety and health.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1999

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. LOTT. Mr. President, we have notified all Members that we would like to complete action on the transportation appropriations bill, and I believe our managers are ready to move in that direction.

We have a list of amendments now that have been identified. I ask unanimous consent that the following amendments be the only first-degree amendments in order to the pending transportation bill, and subject to relevant second-degree amendments:

Managers' amendments; Senator LOTT, three relevant amendments; Senator SHEPHERD, three relevant amendments; Senator Frist, regarding cemeteries; Senator ABRAHAM, regarding name change, ITS; Senator SPECTER, regarding bond issue; Senator DeWINE, regarding Coast Guard; Senator McCONNELL, regarding expedited review; Senator MCCAIN, regarding Amtrak bookkeeping; Senator LEAHY, regarding helicopters; Senator BYRD, two relevant amendments; Senator LEVIN, regarding commuter rail; Senator BUMPER, relevant; Senator LAUTENBERG, relevant; Senator DASCHLE, three relevant amendments; Senator KERRY, one amendment on Amtrak; Senator FEINGOLD, relevant amendment; Senator JOHNSON, two relevant amendments; and Senator DURBIN, regarding smoking on international flights.

Mr. LAUTENBERG. And Gramm on drugs.

Mr. LOTT. And last, Senator GRAMM possibly, one amendment regarding Coast Guard.

Mr. President, we deleted the Feingold relevant.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, with your kind leadership on the floor, we have heard the list. That is now confined. I think we ought to get on with the business of getting it done. We could wrap this bill up in short order. There is a full agenda. The majority leader holds out a plum at the end of the ladder. The plum swings a week from Friday. This helps reach that goal.

I ask my colleagues if they want to get out of here on Friday—I know most of them would like to stay, but you will have to put up with us in getting out early.

Mr. LOTT. I thank the managers of this legislation. Senators SHEPHERD and LAUTENBERG are on the verge of setting up a very commendable record. I ask that they quickly go through this list of amendments and dispose of them and, as soon as possible, identify any needed votes, get a time agreement on those votes, and get it done as quickly as possible. It would help us be prepared to move on to other appropriations bills and be able to get out of here as scheduled next Friday.

I yield the floor.

Mr. CHAFFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I know the hour is beginning to get late and Members would like to know what they can expect tonight. We do have a list of amendments that the managers are working on right now. I believe most of those are going to be resolved without the necessity of extended debate, or even a vote. We should know in another 15 minutes or so exactly what that would be. I hope there won't be more than one or two amendments that require some time.

Our intent would be to do those amendments that are necessary and finish the passage. We do have a list of amendments that the managers are working on right now. I believe most of those are going to be resolved without the necessity of extended debate, or even a vote. We should know in another 15 minutes or so exactly what that would be. I hope there won't be more than one or two amendments that require some time.

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any recorded votes on the credit union bill in the morning.

So in summation, if we could get cooperation on the transportation bill, we could wrap that up here relatively shortly and that would be the final vote tonight, if the Members would cooperate with us.

Senator DASCHLE has been working to get this amendment list identified. He agrees that this would be a good approach. The Members would have a decent chance to wrap that up and move on to the quorum talk. So I think this is a plan that will still require some cooperation and support on both sides of the aisle, but I think it is the best way with which to accommodate the Members’ schedules and the need to pass these two bills in an appropriate time frame for taking the actions the majority leader has outlined.

So I think this is a plan that will still require some cooperation and support on both sides of the aisle, but I think it is the best way with which to accommodate schedules as well as the need to address these issues soon. So I certainly commend the majority leader for the recommendations and the proposal, and I hope we can complete our work.

Mr. DASCHLE. I thank the Senator. I thank the Chair.

I yield the floor. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DASCHLE. Mr. President, I thank the Senators on both sides for the cooperation that they have given on transportation, as well as on the District of Columbia. I think we can accommodate Senators’ schedules and the need to pass these two bills in an appropriate time frame for taking the actions the majority leader has outlined.

I think this is a plan that will still require some cooperation and support on both sides of the aisle, but I think it is the best way with which to accommodate schedules as well as the need to address these issues soon. So I certainly commend the majority leader for the recommendations and the proposal, and I hope we can complete our work.

Mr. DASCHLE. I thank the Senator. I thank the Chair.

I yield the floor. I observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3326

(Purpose: To provide for expedited review to ensure constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] proposes an amendment numbered 3326.

Mr. MCCONNELL. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 92, after line 23, add the following:

SEC. 3. JUDICIAL REVIEW OF CONSTITUTIONAL CLAIMS.

(a) EXPEDITED CONSIDERATION.—It shall be the duty of a district court of the United States and the Supreme Court of the United States to advance on the docket and to expedite to the maximum extent practicable the disposition of any complaint challenging the constitutionality of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 113), whether on its face or as applied.

(b) APPEAL TO SUPREME COURT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any order of a district court of the United States disposing of a claim described in subsection (a) shall be reviewable by appeal to the Supreme Court of the United States.

(2) DEADLINES FOR APPEAL.—

(A) NOTICE OF APPEAL.—Any appeal under paragraph (1) shall be taken by a notice of appeal filed within 10 calendar days after the date on which the order of the district court is entered.

(B) JURISDICTIONAL STATEMENT.—The jurisdictional statement shall be filed within 30 calendar days after the date on which the order of the district court is entered.

(C) APPLICABILITY.—Subsections (a) and (b) shall apply with respect to any claim filed after June 9, 1999, but before June 10, 1999.

Mr. MCCONNELL. Mr. President, the amendment I have sent to the desk simply says that the courts should tell us once and for all whether the DBE Program in the new ISTEA law is constitutional.

The new ISTEA law, now referred to as the Transportation Equity Act for the 21st Century, contains the much debated and long discussed DBE Program.

As every Senator knows, and as the Supreme Court has made clear, this government-mandated program requires States and private contractors to treat persons differently based on race. The DBE Program, at a minimum, grants benefits and presumptions to some persons based on race and ethnicity but denies the same benefits and presumptions to others based on race and ethnicity.

Now, some say that the preferences are vast and pervasive, while others say preferences are only slight and incremental. Some say that preferences are unfair. Others say that any burdens placed on persons of the wrong race are far outweighed by the benefits for the citizens of the “officially preferred” race.

Mr. President, my views on this issue are well known and well documented in the CONGRESSIONAL RECORD. But the policy debate over TEA 21 and the DBE Program is over for now. We have moved beyond that policy debate for the moment. The only thing that the Senate can do today is to ensure the constitutionality of the DBE Program mandated in TEA 21. That is precisely what my amendment does.

Mr. President, when the topic is racial preferences, it is rare that both parties can find any agreement. But I think today is that rare moment. I think there are several areas of agreement today that should lead to unanimous approval of my amendment.

First, I think we can agree that the Supreme Court has acknowledged that racial preference programs subject persons to unequal treatment under the law.

In landmark Supreme Court cases, like Affirmative Action v. Croson, the Court made it clear that programs doling out different presumptions, benefits, and burdens based on race, in fact, subject Americans to unequal treatment under the law.

In the words of the Supreme Court:

Whenever the government treats any person unequally because of his or her race, that person has suffered an injury that falls squarely within the language and the spirit of the Constitution’s guarantee of equal protection.

Moreover, the Court explained:

We deal here with a classification based upon race of the participants, which must be viewed in light of the historical fact that the central purpose of the Fourteenth Amendment was to eliminate racial discrimination emanating from official sources in the States. This strong policy renders racial classifications "constitutionally suspect," and subject to the "most rigid scrutiny," and "in most circumstances irrelevant" to any constitutionally acceptable legislative purpose.
Mr. President, I think it is clear to all of us that strict scrutiny is an extremely high constitutional hurdle. The administration has conceded the height and depth of the constitutional challenge following Adarand. It has spent a considerable amount of resources over the last 3 years trying to respond to Adarand.

Let me count the ways. First, the administration was forced to launch a governmentwide review of all racial preference programs that were broken; second, to remedy past discrimination; third, the Justice Department and the Commerce Department joined forces to embark upon an unprecedented national benchmark survey to help figure out whether various racial preference programs could survive the strict scrutiny test after the Adarand case; and finally, several media reports have indicated that the President has been forced to make good on the part of his promise, and that he has attempted to end or curtail several programs.

Mr. President, I think it is clear to all of us that strict scrutiny is an extremely high constitutional hurdle. Let me quote our colleague, Senator BYRD, on this point. My typically astute and always distinguished colleague from West Virginia explained in the CONGRESSIONAL RECORD that the Supreme Court’s decision in Adarand “makes it exceedingly difficult for any affirmative action program to pass constitutional muster.” And as the Senate’s unofficial historian, Senator BYRD dutifully noted that “the last time the Supreme Court upheld a statute based on a racial or national origin classification under the strict scrutiny test was in 1944.”

Undisputed fact No. 4: Upon remand, the district court in Adarand followed the Supreme Court’s lead and found that the DBE Program could not meet the test of strict scrutiny. Let me read the relevant portion of the district court’s opinion and order:

It is ordered that section 1003(b) of ISTEA, [that is, the Disadvantaged Business Enterprise Program] and ... the regulations promulgated thereunder ... are unconstitutional.

In fact, the district court, like many of us in the Senate, expressly questioned whether any race-based statute could be upheld as constitutional.

The Federal judge concluded, “I find it difficult to envision a race-based classification that is narrowly tailored.”

The district court’s ruling was not exactly a surprise to many of the Nation’s constitutional scholars. As the Constitutional Research Service has explained, the district court’s decision in Adarand “largely conforms to a pattern of Federal rulings which have invalidated government programs to promote minority contracting in the following places: Richmond, San Francisco, San Diego, Dade County, Florida, Atlanta, New Orleans, Columbus, [the State of] Louisiana, and [the State of] Michigan, among others. . . .”

So let me repeat undisputed fact No. 4. The DBE Program was declared unconstitutional by the Federal court in Colorado.

Undisputed fact No. 5: The attempt to respond to Adarand did not involve any statutory reform whatsoever. The administration’s reform of the law came in the form of a maze of complex and lengthy new regulations to try to fix the ISTEA program.

Undisputed fact No. 6: Members of both parties expressed concern about the constitutionality of the program, and many of those who voted to support it relied upon the administration’s promises and proposed regulations.

Let me quote three of these will remember that in March of this year, 1998, a divided Senate spent several hours over the course of 2 days debating whether a “mended” transportation program that continues to treat persons differently based on race would now be upheld as constitutional. Ultimately, 58 Senators took the administration at its word and reauthorized the program, but with a very watchful eye.

I think that my good friend from New Mexico summed up the feeling of those Senators who supported the new DBE Program, but had the following admonition. Senator DOMENICI said:

I say to the administration very clearly right now: You have now put the signature of the Attorney General of the United States and the Secretary of Transportation on the answer to . . . seven questions [about the constitutionality of this program]. And this Senator [the Senator speaking] is not going to fold my hands and sit back and say no . . . . No, it is not.

Senator DOMENICI. We must ensure that the new regulations closely follow the guidance set forth by the Court in Adarand.

Senator BAUCUS, the ranking minority member of the committee responding:

I concur. It is the committee’s intention that this program be carried out in a manner that is consistent with the Constitution. We expect no less. Secretary Slater is aware of, and is assured agrees with, our views on this matter.

Senator WARNER. As chair of the subcommittee that sponsored this bill, I have a particular interest in this matter and want to assure the Senator that adherence to Adarand is our intent.

Senator DOMENICI. I appreciate the Senator’s confirmation on this point. Let me ask further: Will the committee continue to be in touch with Department officials as the regulations are ready for release? And will this committee scrutinize the new regulations to ensure that the Department did in fact follow the Court’s guidance under Adarand?

Senator CHAFEE. Yes, we will.

Senator BAUCUS. I can assure the Senator, and the Senate, that we will indeed.

Senator WARNER. We certainly intend to.

Senator DOMENICI. I am pleased to hear it, and I want to thank the Senators for taking the time to respond to my concerns.

Mr. President, I could stand here on the floor and read statement after statement made by Members of both parties during the ISTEA debate in March of this year that spell out the Senate’s serious constitutional concerns about the DBE Program. But I think it is abundantly clear that every Member of the Senate understands the constitutional guarantees and obstacles that stand in the way of a Federal highway program that treats Americans differently based on the immutable trait of race.

Let me say that I wholeheartedly agree with and appreciate the constitutional concerns set forth by Senators CHAFEE, BAUCUS, WARNER, DURBIN, and DOMENICI. We must ensure that the new DBE Program is constitutional.
My amendment is perfectly consistent with these constitutional concerns, and I hope all Senators will fully support my amendment.

Undisputed fact No. 7: The proposed regulations were not final prior to our vote on the DBE Program in the Senate. In fact, the proposed regulations are still not final, even though the CONGRESSIONAL RECORD is filled with statements promising that the new DBE regs would be final in April or May of this year.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the House feeling that there are legitimate constitutional questions surrounding the DBE Program. Specifically, TEA 21 contains the Department of Transportation from cutting off Federal transportation funds whenever a State discontinues its federally mandated DBE Program in compliance with a court order striking down the program as unconstitutional. So, Mr. President, the very law we passed makes it perfectly clear that there are valid questions of constitutionality about the DBE Program.

The courts have also made it clear that the DBE Program raises genuine questions of constitutionality. Case law is replete with courts striking down programs that mandate different rules and different treatment for citizens of different races. The Congress, with a few notable exceptions, has offered no analysis to the court of the constitutionality of the DBE Program. Specifically, I have offered in this session of Congress mandated an expedited Supreme Court review provisions. I think these facts are undisturbed by the amendment I am offering. I think these facts are common ground for the amendment I am offering.

Mr. President, undisturbed fact No. 8: The Senate should take its oath to uphold the Constitution seriously. Mr. President, let me say that all of us, when we come into the Senate, solemnly swear that we will support and defend the Constitution of the United States. I think we can all agree that Americans deserve to know whether an important law involving race, civil rights, the 5th and 14th amendments, is constitutional.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

So as the statements that I read earlier from Senators Chafee, Baucus, and others made clear, we do not know for sure whether the proposed regulations make the DBE Program more constitutional or less constitutional. We do not know for sure whether the proposed regulations will help or hurt, whether the regs alter the statute to allow the program to pass the stringent test of strict scrutiny. Whether the US Courts of Appeals will follow the district court in Adarand and continue to strike down the program as unconstitutional.

Mr. President, undisputed fact No. 9: I think we can all agree that, at a minimum, there are legitimate questions of constitutional validity regarding the DBE Program. Both the Senate and the House acknowledged these questions when we had extended debate and a divided vote back in March on whether the program was constitutional.

Moreover, the TEA 21 law is direct evidence that both the Senate and the House feel that there are legitimate constitutional questions surrounding the DBE Program. Specifically, TEA 21 contains the Department of Transportation from cutting off Federal transportation funds whenever a State discontinues its federally mandated DBE Program in compliance with a court order striking down the program as unconstitutional. So, Mr. President, the very law we passed makes it perfectly clear that there are valid questions of constitutionality about the DBE Program. The courts have also made it clear that the DBE Program raises genuine questions of constitutionality. Case law is replete with courts striking down programs that mandate different rules and different treatment for citizens of different races. The Congress, with a few notable exceptions, has offered no analysis to the court of the constitutionality of the DBE Program. Specifically, I have offered in this session of Congress mandated an expedited Supreme Court review provisions. I think these facts are undisturbed by the amendment I am offering. I think these facts are common ground for the amendment I am offering.

In more recent years, the Congress has focused the expedited review approach on those important laws that are surrounded by legitimate questions of constitutional validity. A quick search by the Congressional Research Service has documented several recent laws and bills that have included expedited Supreme Court review provisions. I think my colleagues will remember each of these. Let me name just a few: the Line-Item Veto Act; the Communications Decency Act; the census sampling in last year's Commerce-Justice-Communications Decency Act; the census sampling in last year's Commerce-Justice Appropriations bill; the District of Columbia Schools Opportunity State appropriations bill; the District of Columbia Schools Opportunity State appropriations bill; the Gramm-Rudman-Hollings Act; and the Grimm-Rudman-Hollings Act.

All of those rather well-known measures had an expedited Supreme Court review provision. These are just a few of the bills that have included expedited review provisions. These were generally supported and passed in both Houses of Congress for the simple reason that there were legitimate questions of constitutionality surrounding key provisions of the bills.

Mr. President, this leads me to undisputed fact No. 9: I think we can all agree that, at a minimum, there are legitimate questions of constitutional validity regarding the DBE Program. Both the Senate and the House acknowledged these questions when we had extended debate and a divided vote back in March on whether the program was constitutional.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

So as the statements that I read earlier from Senators Chafee, Baucus, and others made clear, we do not know for sure whether the proposed regulations make the DBE Program more constitutional or less constitutional. We do not know for sure whether the proposed regulations will help or hurt, whether the regs alter the statute to allow the program to pass the stringent test of strict scrutiny. Whether the US Courts of Appeals will follow the district court in Adarand and continue to strike down the program as unconstitutional.

Mr. President, undisputed fact No. 10: If we are willing to grant expedited review to ensure the constitutionality of everything from census sampling to vouchered vetoes to balanced budget laws to Internet restrictions, then surely we would all agree that Americans deserve to know whether an important law involving race, civil rights, the 5th and 14th amendments, is constitutional.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

So as the statements that I read earlier from Senators Chafee, Baucus, and others made clear, we do not know for sure whether the proposed regulations make the DBE Program more constitutional or less constitutional. We do not know for sure whether the proposed regulations will help or hurt, whether the regs alter the statute to allow the program to pass the stringent test of strict scrutiny. Whether the US Courts of Appeals will follow the district court in Adarand and continue to strike down the program as unconstitutional.

Mr. President, undisputed fact No. 11: Undisputed fact No. 7: The proposed regulations were not final prior to our vote on the DBE Program in the Senate. In fact, the proposed regulations are still not final, even though the CONGRESSIONAL RECORD is filled with statements promising that the new DBE regs would be final in April or May of this year.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

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Mr. President, undisturbed fact No. 8: The Senate should take its oath to uphold the Constitution seriously. Mr. President, let me say that all of us, when we come into the Senate, solemnly swear that we will support and defend the Constitution of the United States. I think we can all agree that Americans deserve to know whether an important law involving race, civil rights, the 5th and 14th amendments, is constitutional.

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Mr. President, undisputed fact No. 9: I think we can all agree that, at a minimum, there are legitimate questions of constitutional validity regarding the DBE Program. Both the Senate and the House acknowledged these questions when we had extended debate and a divided vote back in March on whether the program was constitutional.

Well, Mr. President, we are now headed into August, and it is my understanding that the States and contractors still have no guidance from DOT on how to run this multibillion-dollar DBE Program in compliance with the Constitution, with Adarand, with the Supreme Court and the law of the land.

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Mr. President, undisputed fact No. 9: I think we can all agree that, at a minimum, there are legitimate questions of constitutional validity regarding the DBE Program. Both the Senate and the House acknowledged these questions when we had extended debate and a divided vote back in March on whether the program was constitutional.
We owe it to the minority-owned businesses who are forced to hang in the balance and twist in the constitutional winds wondering if the current program will survive a court challenge.

And, finally, we owe it to every American who sent us to the U.S. Senate to faithfully uphold the Constitution.

Mr. President, that is all this amendment would do. Regardless of how Senators may have voted on this measure back in 1993, I submit that we should quit simply just provide expedited Supreme Court review in this field. This is something we have frequently done, as I indicated in my prepared remarks.

I hope that this amendment will be cleared and accepted on both sides of the aisle.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MOSELEY-BRAUN. Mr. President, I would like to respond to the amendment by the Senator from Kentucky. But at the outset, I want to point out that inasmuch as this amendment is about Federal contracting under the Disadvantaged Business Enterprise section of ISTEA, which has obviously been a matter of controversy precisely because it speaks to open the door to women, and minorities, it speaks to Federal contracting activity under the auspices of that program. Again, the Disadvantaged Business Enterprise section of ISTEA, which is the Intermodal Surface Transportation and Efficiency Act.

This has been a controversy to the extent that the Supreme Court has already taken the issue up in another context at least with regard to a State court law in the Adarand case.

In the Adarand case, the Supreme Court said that the Federal Government's affirmative action programs to "strict scrutiny," meaning that the programs must be "narrowly tailored" to meet "a compelling government interest."

The Court explicitly in that case stated that affirmative action is, in fact, still necessary. It wrote, and I want to quote from the Adarand case: "The unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and the government is not disqualified from acting in response to it."

I will even take issue with that part of the dicta in the case in that the DBE law, the Disadvantaged Business Enterprise law, applies not just to racial minorities; it applies not just to ethnic minorities, but applies to women as well.

So we have a situation in which individuals of their status, their station in society, had not been previously able to do business, start out with something of a disadvantage, and it is for that reason that the program was initiated to correct that imbalance to bring some fairness, to bring some equity, to bring some fair share of the spending of Federal contracting dollars with the majority-minority community. I say again, "majority-minority" community, because when you add women and African Americans, Hispanic Americans, Native Americans, Asian Americans, all of the different groups included in the definition, the last time I looked, when you add all of the minority groups, when you add women, you are really talking about a majority of the population of this country.

The DBE, Disadvantaged Business Enterprise section of the law allows them to participate in the transportation equity, in the Department of Transportation funding.

The question is, Why are we here to talk about this amendment? What does this amendment say? What does it seek to do? Well, what this amendment says is that the minute someone comes in and says, "Ah-ha. I think that the program that is giving this female contractor the asphalt paving contract in my State, I think that is illegal." Then your case goes ahead of the murder cases on the docket; your case goes ahead of the drug cases on the docket; your case goes ahead of the antitrust cases on the docket; your case goes ahead of the civil rights cases on the docket; and your case goes ahead of everybody.

We have to ask ourselves: Does this make any sense at all? Why is there such an egregious harm? What devastating occurrence has taken place that would give this claim a right to overcome everything else on a court's docket and make it go directly to the Supreme Court? Does not take advantage of the procedures that have been placed literally, in many instances, since the founding of this Republic.

The Senator from Kentucky apparently thinks that opening up the door and allowing women and allowing minorities to have some part of the business enterprise of this country is just that egregious an occurrence that it takes priority to go directly to the Supreme Court, and has an opportunity to be heard immediately before anybody else has the right to get protected.

I submit to my colleagues that the logic of this amendment is what fails it the most. It is simply not logical to put aside everything else on a court's docket to avoid the court of appeals altogether, to take this dramatic move
to redress what injury. What injury? I think the Senator from Kentucky fails to demonstrate the injury. The Senator from Kentucky also fails to talk about what standing, what case or controversy, what issue would give rise again to undo all the procedures associated with the challenging of the constitutionality of cases in the courts of this country.

So what this amendment really is about is attacking the legality of the DBE Program through the back door. Would that it be through the back door, it would be even more direct. But this goes through a side door and takes with it the integrity of the court's procedures. This goes through a door that says, "Whenever we don't like something in this Congress, we can just change the law and change the relationship between the courts and the executive branch and the legislative branch willy-nilly as we see fit and come up with a brand new procedure that creates from whole cloth a process of appeal for a set of circumstances, again, the injury of which, frankly, escapes me, and I think escapes a number of our colleagues.

I would point out that the front-door attack on the DBE Program failed, failed by 58 votes during the ISTEA debate, and it was, frankly, a very good thing in my opinion. I understand the Senator from Kentucky and I see these things differently, but in my opinion it was a very good thing that a number of our colleagues recognized they would have to go home and explain to all of the women who had wanted to do business with the Department of Transportation the door was slammed in their face, and that wasn't a good thing. Then they would have to go home and explain to all of their minorities, be they racial minority or ethnic minority, the door was slammed in their face. And that would not be a good thing.

The amendment was defeated in the front-door attack, and so now the Senator from Kentucky has developed a way to come at it sideways by saying, We are not going to ourselves repeal it, or attempt to repeal it, because we cannot repeal it; we are not ourselves going to take on straight forward the legality or the propriety of the Disadvantaged Business Enterprise Program, and we are not going to go in the back door, either. We are going to get in the side door. We are going to let anybody out there who might want to take up this cudgel for us, who might want to play politics in the courts for us, we are going to give them this opportunity to do it, and we are going to let them do it in an expedited way.

Well, let me suggest that this is not a place where new judicial procedures ought to be supported. Then the challenge for this new set of procedures or for this new expedited appeals process. This controversial amendment does not belong on this bill because, quite frankly, I believe this amendment in and of itself would be enough to bring down this bill. I don't think the Senator from Kentucky or anybody else wants to see something as important as this legislation go down over this novel, creative, innovative, imaginative procedure that is being suggested by the Senator from Kentucky.

I have just received a note from the ranking member, and I don't know if he wants to say something or not, but, in any event, I certainly will defer to him and his leadership in this area. He has been exemplary over time.

Mr. President, I plead with the Senator from Kentucky to refrain from the controversy that is about to be visited on this very important legislation. I thank the Chair, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I note the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, this is not a complicated amendment. We had the debate back in March on the EPP. We had a vote in the Senate there.

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The Senator from Kentucky did not support the program and did think the Senate ought to follow the Adarand decision and the subsequent district court decision ruling the DBE Program to be unconstitutional. All the amendment of the Senator from Kentucky does is provide for an expedited review of those regs once they are promulgated and litigated as they will certainly be litigated.

It is not unusual on matters of extraordinary or unusual to hope that the Supreme Court or the Constitution signifi- cance for the Congress to say, "We would like to get an expedited review, an answer to the issue." So that is all this amendment is about. It does not deal with the merits of the debate at all. The Senator from Kentucky did not support the program and did think the Senate ought to follow the Adarand case, but the Senator from Kentucky lost that debate, cheerfully, I might say, and all we are asking for here is an expedited review of the new regs after they are promulgated.

I, frankly, thought this amendment would be accepted and am somewhat surprised that we are having a debate about it. But I think this amendment does. Regardless of how Senators may have voted on the DBE Program back in March, this is not about that. All this amendment does is obtain an expedited decision by the Supreme Court on the regulations imposed by it, and the regulations imposed by it, violate the Constitution of the United States, before we pass it. And that is what this amendment does. It is not unusual. We did it with the line-item veto, which the Supreme Court has given attention and careful review to it. I believe they are very, very sensitive to the national interest in having minority citizens, minority groups be able to rise and succeed in our economy. That is a serious matter. I believe the Adarand decision is well decided. I believe in my judgment, and I don't claim to be a Supreme Court justice, but in my judgment the present statute that we passed is in violation of Adarand. But, regardless of that, the President has said that he can cure the problems of Adarand through regulations and they intend to issue regulations that would avoid this conflict. I am not sure that is possible. It may be. But what I want to say to the Senator from Kentucky to say is we are not here to debate that issue again. We are simply saying that if this law and the regulations imposed by it, violate the Constitution of the United States, before we pass it, we ought to set up a system in which there can be a prompt review by the courts to judge on that.

That is all this does, it seems to me. I salute him for suggesting at least one small step that will reach a final conclusion of this matter.

Before the Senate Judiciary Committee we had hearings on this matter. We had the lady who was married to the president of Adarand Corporation. She testified how they had suffered because of the set-asides in the transportation bill. We had a similar provision in the census Act and the Gramm±Rudman±Hollings Act. Mr. President, this is not in any way extraordinary or unusual to hope that the Supreme Court would give us some expedited guidance is a matter of great importance.

Mr. President, I see the Senator from Alabama in the Chamber. I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I had occasion to study this issue previously, and there is a serious question this country is facing. I believe the Supreme Court has given attention and careful review to it. I believe they are very, very sensitive to the national interest in having minority citizens, minority groups be able to rise and succeed in our economy. I believe the Adarand decision is well decided. I believe in my judgment, and I don't claim to be a Supreme Court justice, but in my judgment the present statute that we passed is in violation of Adarand. But, regardless of that, the President has said that he can cure the problems of Adarand through regulations and they intend to issue regulations that would avoid this conflict. I am not sure that is possible. It may be. But what I want to say to the Senator from Kentucky to say is we are not here to debate that issue again. We are simply saying that if this law and the regulations imposed by it, violate the Constitution of the United States, before we pass it, we ought to set up a system in which there can be a prompt review by the courts to judge on that.

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I think the Senator from Kentucky has proposed a reasonable, fair amendment. I think it is unusual. We did it with the line-item veto, which the Supreme Court recently struck down. We had such a provision in the Communications Decency Act. We had it in the census sampling measure in last year's Commerce-Trade±Justice appropriations bill. We had a similar provision in the D.C. Schools Opportunity Scholarships Act and the Gramm±Rudman±Hollings Act.

Mr. President, this is not in any way extraordinary or unusual to hope that the Supreme Court would give us some expedited guidance is a matter of great importance.

Mr. President, I see the Senator from Alabama in the Chamber. I am happy to yield the floor.
this country, what standards should be applied, and how our goods and services ought to be dispersed. I suggest they should not be dispersed on the basis of the color of one's skin.

Mr. President, I yield the floor.

Ms. MOSELEY-BRAUN. Is the Senator from Alabama aware that the program applies not just to people based on the color of their skin, but also to women, as well as other ethnic groups who have not historically done business with the Department of Transportation?

Mr. SESSIONS. Yes, the Senator is quite correct. It does apply to a number of different circumstances. Some of those circumstances, I suggest, probably are constitutional. Many of those things may be required. Certain parts of it might not, I suggest, with regard to those that may not be, let's go on and not have it take 3 years to get up through the court system. Let's have a review so there can be a prompt determination of what would be legitimate and what would not be.

Ms. MOSELEY-BRAUN. I thank the Senator.

The PRESIDING OFFICER (Mr. Frist). Is there further debate on the amendment?

If there be no further debate, the question is on agreeing to the amendment.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerks will call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 3326. The amendment (No. 3326) was agreed to.

Mr. SHELBY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAUTENBERG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS. Mr. President, I want to thank Senator SHELBY and the entire Senate Transportation Appropriations Committee for their work putting together this legislation. I would like to briefly engage my colleagues in a colloquy on an issue important to me and my constituents in Vermont: preservation of our nation's historic covered bridges. The recently passed Interstate-2, ISTEA-2, contains language authorizing funding to protect historic wooden covered bridges. The National Historic Covered Bridge Preservation Act asks the Secretary of Transportation to study the appropriate techniques to protect and preserve covered bridges, distribute this information to states and towns across the country and grant funds to fully repair and protect historic covered bridges. The bill, that is now law, authorizes $10 million for these activities. I understand the difficulty my colleagues had in distributing funds in this legislation. Although no funds were set aside to fund these activities, I would ask the Chairman of the Senate Transportation Appropriations Subcommittee if he would agree that preservation of historic covered bridges should be a priority.

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that preserving our nation's historic covered bridges should be a priority for the U.S. Department of Transportation and transportation departments across the nation.

Mr. JEFFORDS. Would the Senator agree that from available funds included in this legislation for the Federal Highway Administration, can the Secretary of Transportation use funds to conduct research on the history of historic covered bridges, and study the techniques for protecting these bridges from rot, fire, natural disasters or weight related damage? Would the Senator agree that the Federal Highway Administration should use available funds to develop and publish guidance for implementation of the National Historic Covered Bridge Preservation Act?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that the Federal Highway Administration should make this a priority and move to publish guidance as soon as possible.

Mr. JEFFORDS. Would the Chairman of the Senate Transportation Appropriations Committee agree that funding for the repair and reconstruction of covered bridges should be given priority within the Bridge Discretionary Program?

Mr. SHELBY. Mr. President, I agree with the Senator from Vermont that every effort should be made by the Secretary of Transportation to use funds from within the Bridge Discretionary Program to repair and rehabilitate covered bridges across the nation.

Mr. JEFFORDS. I would like to thank the Senator for their commitment to covered bridges and for working with me to ensure that the program is fully funded within available funds at the U.S. Department of Transportation.

Mr. GORTON. Mr. President, I rise today in support of the Transportation Appropriations measure crafted by Senator SHELBY. This bill takes a significant step forward in addressing the transportation needs of the nation, and more specifically of Washington state.

As the Aviation Subcommittee Chairman, I am especially pleased with the generous increase in funding for the Airport Improvement Program. The Airport Improvement Program provides valuable grants to fund the capital needs of the nation's commercial airports and general aviation facilities. It allows the Secretary of Transportation and the FAA Administrator to fund planning, design, and construction of airport projects directly affecting aircraft operations, including runways, aprons, and taxiways, which are essential for maintaining the safe and efficient nationwide system of public use airports.

Adequate funding for AIP is integral to addressing the infrastructure needs of our national transportation system. The GAO estimates that the gap between available funds and projected maintenance and construction costs for airports is almost $3 billion. The $2.1 billion included in this measure for AIP is a significant step toward bridging this gap. As the Aviation Subcommittee Chairman, I will continue to look for the best possible way to assist the Appropriations Committee in meeting the infrastructure needs of our aviation system.

Chairman SHELBY also included several aviation related items that will have a positive impact on Washington state's airports. Inclusion of $6 million for the Competitive Contract Sharing Pilot Program is certainly a positive development for my state. This new program, which I am also working on in the context of the FAA reauthorization measure, will allow local airports that fail below the current eligibility criteria for the existing program to cost-share with the FAA. The $6 million included by Chairman SHELBY will cover cost-sharing arrangements for approximately 30 contract towers across the country that will be able to maintain their contract towers and, therefore, not diminish the current level of safety.

I am pleased that the Chairman included $3 million for the Tactical (Transponder) Landing System. This system was recently certified by the FAA and could provide immense benefits to airports that are surrounded by geographical barriers such as mountainous terrain or approaches over water that render the current Instrument Landing System useless. With the installation of a TLS, Boeing Field, which currently causes significant noise problems for local residents, will be able to structure much more acceptable landing patterns.

Moscow/Pullman airport, which is also included in the bill, should be an excellent test of the capability of a TLS in mountainous terrain. I would also like to commend Chairman SHELBY for giving priority consideration to Felts Field, Pangborn Field, Paine Field, and Spokane International airport. At each of these airports, problems that I look forward to working with the FAA to resolve in a safe and timely manner.

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This bill is not only positive for aviation. The Chairman has realized that innovative thinking and problem solving in the transportation field deserves priority consideration. This is demonstrated in the Transportation Planning, Research and Development account, where the Chairman included two projects in Washington state that will serve as models for communities across the nation. The first is a freight mobility study instigated by the Kent, Washington Chamber of Commerce that will bring together representatives from federal, state, and local governments, as well as the shipping, trucking, and rail industries, along with organized labor, to brainstorm on ways we can make the existing system work better, realizing that we have finite resources with which to improve our aging infrastructure.

The other Washington state project included in the Transportation Planning, Research and Development account is the Chehalis Basin/5 Flooding project. Currently, flooding in the Interstate 5 corridor near Centralia/Chehalis in Washington state seriously compromises freight mobility, with damages estimated at $80 million per day. The Washington State Department of Transportation (WSDOT) is currently planning to solve the problem by elevating the freeway for almost three miles. This would be a typical federal project, but it would also exacerbate the flooding problem in the Chehalis River Basin and have extensive environmental impacts. The plan is estimated to cost $98 million, with funding anticipated from the federal roads allocation to the states. As an alternative, Lewis County is leading a consortium of three counties (with Grays Harbor and Thurston), two cities (Centralia and Chehalis) and the Chehalis Tribe to eliminate the 5-flooding problem by solving the flooding along the upper Chehalis River. Work on this project is well-advanced, and cost estimates range between $60-80 million. I look forward to working with the Chairman to ensure a significant federal contribution to assist in the costly permitting process that will make this common sense alternative solution a reality.

The Chairman was also very generous in his support for the Regional Transit Authority. As recently renamed Sound Move. On November 5, 1996, the voters of the Puget Sound region approved this $3.91 billion transportation proposal. Sound Move will increase the capacity of the region's transportation system through a mix of light rail, commuter rail, High Occupancy Vehicle (HOV) expressways, regional express bus routes and "community connections" (such as park-and-ride lots and transit centers). Once completed, Sound Move will be able to travel throughout a densely populated tri-county region in the state—Pierce, King and Snohomish counties—by local bus, regional bus, light rail and commuter rail, using a single ticket.

By passing the Sound Move ballot measure, voters in the Puget Sound region agreed to provide the local funding portion of the plan through a .4 percent increase in the sales tax and a .3 percent increase in the motor vehicle excise tax. These tax revenues will provide a stable, dependable, dedicated source of local revenue for building, maintaining and operating the system. Coupled with revenue collected from bonds and fareboxes, this funding will provide a 62 percent local match for the light rail and commuter rail portions of the project and over 80 percent of the total $3.91 billion project. Despite the voters' clear willingness to pay for an improved transportation system, the Regional Transit Authority needs federal financial assistance to successfully implement the light rail and commuter rail portions of this plan. The rail segment of the Sound Move light rail line with 26 stations between Seattle's University District and the City of SeaTac via downtown Seattle and the Seattle-Tacoma International Airport; a 1.6-mile light rail line between SeaTac International Airport and Dome train station; and an 81-mile commuter line using existing freight rail ways (with Grays Harbor and Thurston), is leading a consortium of three counties with at least 14 stations.

Mr. President, Sound Move is one of the most cost-effective projects in the nation, with one of the strongest local commitments. In fact, Sound Move ranked Medium/High in all categories in the recently released Department of Transportation FY '99 Report on Funding Levels and Allocation of Funds for Transit Major Capital Investments. These rankings demonstrate the overall strength of the project, which boasts ridership and cost effectiveness estimates that unquestionably rank it among the best in the country. The voters around Puget Sound are eager to join the federal government in making this project a reality and it is my hope that the $60 million included in this measure for the rail component of Sound Move will be supplemented by the full $18 million which was included in the House bill for buses.

Mr. President, once again, I would like to thank the chairman for crafting a fair measure that adequately funds national priorities while realizing and addressing the unique transportation problems facing Washington state.

Mr. McCAIN. Mr. President, the Senate has completed action on several of the annual appropriations bills that fund the federal government and its many programs. The appropriations bills that have cleared the Senate to date contain proposals that generally provide appropriate levels of funding to continue the necessary functions of the federal government. But, Mr. President, these bills regrettably continue the practice of earmarking billions of taxpayers dollars for pork-barrel projects. Over my tenure in Congress, I have consistently fought Congressional earmarks that direct money to particular projects or regions that such decisions are far better made through competitive, merit-based guidelines and procedures.

Traditionally, earmarking has been more geared to political interests rather than public needs and priorities. Highway demonstration projects, earmarked by Congress, have been a classic case-in-point. Most of these projects, which totals more than $9 billion in the Transportation Efficiency Act for the 21st Century (TEA-21), don't even appear on state priority lists.

The same is true for many other Congressional earmarks. I find this an appalling waste of taxpayer dollars. And, S. 2307 is typical of the type of earmarks that Congress adds to the multi-billion dollar appropriations bills we annually consider. This bill and report earmark more than $1.1 billion for site-specific bridge replacement and airport projects, research activities at selected universities, intelligent transportation projects, ferry systems, road improvements in ski areas, state-specific snow removal activities, bus purchases and transit projects.

Mr. President, S. 2307 continues Amtrak's subsidies yet goes so far to concoct yet a new spending scheme to pay for its operating costs. I will be proposing an amendment to ensure Amtrak's financial situation is not a moving target and that the integrity of the reform legislation enacted just over six months ago is not jeopardized by the proposals in this measure.

This bill further earmarks several million dollars of Amtrak's capital funds for new rail projects and to rebuild with Amtrak. The Committee report earmarks $1.4 million to relocate an Amtrak passenger station in Pennsylvania, $2.5 million to refurbish two turbo trains for Amtrak's empire corridor, and $1 million to install a speed monitoring system for locomotives operating between New Haven, CT and Boston, MA. The report also directs that $980,000 be used to restore the historic Southern Pines, NC, railroad station, which is owned by the State of North Carolina and served by Amtrak's Silver Star route.

Did the Congress agree last year that Amtrak needs to operate like a legitimate business? Isn't that why we approved legislation which placed Amtrak on a glidepath to free itself of operating subsidies? How is directing Amtrak to carry out these projects or requiring it to spend its resources on certain projects going to help Amtrak compete? Its ridership continues to decline and Amtrak should be permitted to expend its funds on those projects it deems most critical, not on projects required by the whims of Congress.
Mr. President, in addition to the types of earmarking I have mentioned, the Appropriators have taken a number of actions that fall squarely under the authorizers' duties. For example, the bill would prohibit the Coast Guard from using any new user fees. This means the Administration would be prevented from implementing even reasonable new user fees. I understand the concerns that the user fee proposed by the Administration are discriminatory in that they would target only certain users of the navigation system, but the language in the bill is overly restrictive.

Mr. President, there are some small earmarks in this year's transportation appropriations bill as well as some very large earmarks. For example:

More than 80 percent of the total funding provided for Intelligent Transportation Systems deployment projects are earmarked. The bill specifically sets aside more than $94 million for projects in 90 cities and counties, and in 13 states.

Although no dollar amounts are set for individual bus projects, the bill prohibits the Federal Transit Administration from using any of the $393,550,000 provided for transit projects not designated in S. 2307. All of the 150 TEA-21 authorized bus projects are included in the bill, and more than 150 new projects are named. Some of these projects have been earmarked in the past and others are new additions to the bus earmark parade.

The appropriators have earmarked all of the $902,800,000 provided for the new transit and transit system extension programs. Many of the projects are unauthorized and were not requested by the Administration.

Examples of the earmarks for unauthorized projects include $2.5 million for multimodal transportation in Albuquerque/Santa Fe, New Mexico; $8 million for a highway corridor in North Miami; and $250,000 for a micro rail trolley system in Sioux City, IA.

Why are the appropriators so reluctant to permit projects to be awarded based on a competitive and meritorious process? The purpose would be fair for all the states and local communities? I suspect it is due to the fact they doubt the merits and worth of the very projects they are earmarking.

The bill contains a legislative amendment to section 1110 of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA). By making a simple definitional change, the provision would modify ANILCA to permit helicopters to land in all conservation system units in Alaska, including National Forests, National Wildlife Refuges, National Parks, and National Wilderness Areas. The legislative changes could result in large-scale helicopter tourism in these sensitive conservation system units. The transportation appropriations bill is not the appropriate forum to address a controversial environmental issue. A helicopter's ability to hover over an area is disruptive to wildlife, including large game species and nesting birds. In addition, the capability of a helicopter to land in areas where airplanes cannot cause concern for the integrity of the habitat.

I have only mentioned a few of the examples of earmarks and special projects contained in this measure and I will not waste the time of the Senate going over each and every earmark.

Mr. President, I also want to express the critical need for Congress to send a very clear message to Secretary Slater regarding the Department of Transportation's treatment of the committee report accompanying this bill. Earlier this week, I chaired a hearing on the Department's actions regarding discretionary funding decisions. Believe it or not, some of the DOT modal administrations do not even understand the clear delineation regarding statutory bill language and a committee report.

While I did my best to impress upon the Federal Transit Administration—that report language does not have the effect of law, I am still not sure they get it.

Therefore, I urge Secretary Slater to take immediate action to educate his Department on the very clear and significant differences between the bill language and report language. Report language is not law. Report language does not have the effect of law. Report language is advisory. It's as simple as that.

Mr. BENNETT. I thank the Chairman of the Subcommittee for his clarification and I thank the Chair for its time and attention on the Senate Floor.

SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
APPLICATION FOR A LETTER OF INTENT

Mr. SHELBY. My colleague from Utah is correct in his understanding of this situation. Since the Federal Highway Administration already has a relationship developed with UDOT, the Committee included the state agency to facilitate the flow of these federal funds to the Utah Transportation Center which will administer the research done by Utah State University, University of Utah and Brigham Young University.

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SOUTHWEST FLORIDA INTERNATIONAL AIRPORT
APPLICATION FOR A LETTER OF INTENT

Mr. MACK. Mr. President, southwest Florida is one of the fastest growing areas in the country. Not surprisingly it is also my understanding that RSW is the third fastest growing airport in the United States. Additionally, I am told RSW has experienced an average annual growth of 9.2 percent over the past ten years.

Due to this unprecedented growth, RSW has embarked upon a major expansion program which includes construction of a new terminal and runways. This project is expected to replace the State of Florida's most important airport projects and it has received substantial funding from the State. Moreover, the Federal Aviation Administration has provided discretionary funding for this project.

I would like to thank the Transportation Appropriations Chairman for his interest and support of research on Interstate 15 bridge structures during the construction of this important segment of highway. The Subcommittee on Transportation Appropriations included language in its report (105±249, page 96) which provides $2,000,000 for research on Interstate 15 bridge structures. This report language directs the Federal Highway Administration to make this money available to the Utah Department of Transportation (UDOT) and the Utah Transportation Center (UTC), Chairman SHELBY, am I correct in understanding that UDOT was included in this language primarily to facilitate the flow of these federal funds to the Utah Transportation Center which will administer the research done by Utah State University, University of Utah and Brigham Young University.

Mr. SHELBY. My colleague from Utah is correct in his understanding of this situation. Since the Federal Highway Administration already has a relationship developed with UDOT, the Committee included the state agency to facilitate the flow of these federal funds to the Utah Transportation Center which will administer the research done by Utah State University, University of Utah and Brigham Young University.

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Mr. SHELBY. My colleague from Utah is correct in his understanding of this situation. Since the Federal Highway Administration already has a relationship developed with UDOT, the Committee included the state agency to facilitate the flow of these federal funds to the Utah Transportation Center which will administer the research done by Utah State University, University of Utah and Brigham Young University.
Additionally, as the Senator may be aware, earlier this year RSW submitted a request for a Letter of Intent to the FAA in order to support their expansion project from the agency. Over the course of the last several years, recognizing the budget constraints which the FAA must work under, RSW officials have worked hard to significantly reduce the federal share of this project by more than 30 percent.

I believe the Chairman of the Subcommittee appreciates the effort of RSW, in working with the FAA, to craft a plan which meets the needs of the airport yet substantially cuts costs in an effort to remain within the FAA's anticipated budget constraints. I feel confident this is the type of cooperation from a project which the FAA should consider for priority LOI consideration.

Mr. SHELBY. I thank the distinguished Senator from Florida for his comments regarding our subcommittee's focus on the Southwest Florida International Airport. The Senator has been very active in keeping the subcommittee informed on the progress of the expansion at RSW. Because of this, I am well aware of the intense interest this airport has experienced over the past several years.

Likewise, I am aware of the efforts of RSW to work with the FAA in developing an LOI request, and that this effort has resulted in a substantial reduction in the FAA's share of the project, making it reasonable within today's budget environment. I believe the behavior and efforts exhibited by RSW in working with the FAA, as well as their established need, are exactly the sorts of things the FAA should be looking for when considering LOI requests. Accordingly, I encourage the FAA to give priority consideration to RSW's request for a Letter of Intent.

Mr. MACK. I thank my colleague from Alabama for his past commitment to the Southwest Florida International Airport (RSW) and look forward to continue working with him in the future.

KEEP HELICOPTERS OUT OF WILDERNESS

Mr. LEAHEY. Mr. President, there are maybe thirty-five legislative days left this Congress. We have passed six out of thirteen appropriations—and those have been the easier ones. Now—we are facing the appropriations bills that are bogged down with legislative riders and have already invoked Presidential veto threats.

The Transportation Appropriations bill though is fairly clean and we might be able to pass it tonight. Unfortunately, the temptation to put environmental riders on this bill could not be resisted. Section 342 of this bill will overturn eighteen years of national environmental policy, open some of the most pristine wilderness in the country to helicopter landings.

Mr. President, it is here where the Alaska National Interest Lands Conservation Act was passed by Congress. I remember the careful balance that was crafted to pass this landmark legislation. The question of allowing helicopters was raised at that time and the answer we came up with was to not allow them in wilderness areas except for emergency situations. If you look at the legislative history included in the Senate Report for ANILCA it specifies which exception was allowed in wilderness areas and helicopters are not one of them.

Instead, it directed the Secretary of the Interior to allow airplanes to be used in wilderness areas for traditional reasons. Mr. President, I understand why this exception to the national Wilderness Act was made for Alaska and I supported it at the time. But I supported it as part of a larger compromise. One that this language will now undo.

Two years ago, the Forest Service conducted an Environmental Impact Statement on this same proposal and concluded that helicopters were not airplanes and were not a traditional means of access to the wilderness areas. Obviously, some of my colleagues do not like this conclusion and felt that tackling an environmental rider onto the transportation appropriation bill was the best way to get around it.

The Interior Department has also objected to this language due to the impact on wildlife in these wilderness areas. Mr. President, I think we all know that a helicopter flying overhead is much louder than a small airplane flying overhead. Helicopters blast the adjacent area with a minimum of 100 decibels or more.

But this language is not about just sheer noise. It is also about allowing helicopters to hover and land anywhere in these areas—the remote reaches of the Tongass National Forest, the glaciers of Kenai Fjords National Park and even the inlets of Glacier Bay.

Although it may seem like it now, I am not the only person speaking out against this language. I have over thirty-five letters from outfitters, bush pilots and tour guides in Alaska who oppose this language.

So, Mr. President, I simply ask: What is the rush? Why are we including language in a transportation appropriations bill that rewrites legislation that has been on the books for eighteen years, on which no hearings have been held and that has been recommended for a veto?

Mr. FEINGOLD. Mr. President, I want to express my concern about Section 342 of the Senate FY '99 Transportation Appropriations Bill. That section creates an exception in the Alaska National Interest Lands Conservation Act allowing helicopter landings by the general public on federally-designated wilderness and other protected lands within Alaska.

Federal wilderness lands in Alaska are already protected by two federal laws: the Wilderness Act of 1964 and the Alaska National Interest Lands Conservation Act, known as ANILCA. To describe the interaction of these statutes in more detail, Mr. President, the Wilderness Act establishes a federal definition of wilderness, and governs the use and administration of land within the various states that have been designated by Congress as federal wilderness. ANILCA, which passed in 1980, is the state law which makes various lands within the state of Alaska as federal wilderness. It also conferred other federal land use designations, creating parks, monuments and other protected status lands in Alaska.

I am concerned about Section 342 of the bill before us is that it replaces the word "airplane" with "aircraft" within ANILCA. Though such a change would appear benign to those who do not know the statute well. However, that is not the case. The practical effect of the proposed amendment would be to permit helicopter landings by the general public in federal wilderness areas and other protected lands in Alaska.

Mr. President, there are two major reasons why I find this one-word switch troubling. First, expanding the type of aircraft allowed in federal wilderness areas violates the Wilderness Act and sets a dangerous precedent.

Section 110 of ANILCA presently permits the general public use, on lands protected under the act, of "snow machines, motorboats, airplanes, and nonmotorized surface transportation methods for traditional activities." Although airplane use is specifically permitted in Alaska under ANILCA, helicopter landings by the general public are prohibited in all federal wilderness. However, helicopter landings are permitted on a discretionary basis by the federal land management agencies for emergency situations. All public lands in Alaska allow helicopters to land for that purpose.

I strongly support allowing helicopter landings in wilderness areas to rescue injured or lost visitors. And those uses are already allowed. However, I have concerns about allowing helicopter landings in wilderness for other than emergency reasons, for purely recreational purposes.

In my home state of Wisconsin, people love the wilderness areas they visit such as the Boundary Waters Canoe Area Wilderness and the wilderness areas in the Nicolet and Chequamegon National Forests. They love those places, Mr. President, is not only because they are among the most beautiful spots in the Upper Midwest, but also precisely because they are remote and are challenging to reach. National Parks are beautiful places. I support them, and I visit them with my family. However, National Parks, which have roads and services and maintained campsites, are not the same as the lands protected under the Wilderness Act. These lands required for public access, wilderness areas by contrast, are areas where one can bring one's canoe and tent and hike in, or fly to in a float plane, as permitted today.
under ANILCA. By these means of transportation visitors can enter wilderness areas in a relatively low impact manner.

Allowing helicopters into wilderness areas would mean managing lands, that is, managing wilderness that are supposed to remain undisturbed by human access, in a contradictory manner. Imagine being in a remote spot surrounded by nature on a nice getaway and having a helicopter land right up to you to drop people off for an afternoon of wandering around? I believe we should not sacrifice the very reasons we have protected wilderness in an effort to increase access to the wilderness. If it's easy to get to, it's not a wilderness.

Second, Congress and federal land management agencies have already considered the issue of helicopter use on wilderness lands in Alaska and have found it to be inappropriate and incompatible. The Forest Service has explicitly prohibited and rejected helicopters in Alaska's wilderness. In 1997, the Forest Service completed an EIS specifically addressing helicopter landings in more limited circumstances than the language in this bill. At that time, the proposed changes allow helicopters to land in areas other than specifically designated wildlife, cultural resource, and research areas. Section 342 would allow helicopters in all areas.

The legislative history of ANILCA also specifically excluded helicopters from lands designated under that Act. The Senate Energy Committee considered special access to lands subject to ANILCA, and the Committee Report stated “the transportation modes covered by this bill are float and ski planes, snowmachines, motor boats, and dogsleds.”

Congress has already considered this issue, Mr. President, and we have found that helicopters for general public access to wilderness areas is not appropriate. I urge that we not go back on this sound judgment. I yield the floor.

Mr. MCCAIN. Mr. President, I am very concerned over this bill’s proposal concerning Amtrak’s funding and will offer an amendment to ensure the proposed scheme does not jeopardize the integrity of the Amtrak Reform and Accountability Act, P.L. 105-134, enacted on December 9, 1997.

Congress worked for a number of years in a bipartisan manner and each side accepted compromises in order to provide Amtrak with the statutory reforms it said it needed to allow it a real chance to meet its financial goals. The reform bill was based on both Amtrak's Strategic Business Plan, a plan charting Amtrak's financial operating and capital needs, and its federal grant request. And of course, its ultimate approval was the key to releasing the $2.2 billion “tax credit” for capital investment.

As my colleagues well know, I am not a proponent of a system that was intended to be privatized two years after it was created in 1971, but instead today has racked up more than $21 billion in taxpayer support even though it serves less than one percent of the traveling public. However, I worked in good faith with my colleagues and compromises were made for the enactment of a legitimate reform bill.

I have been standing by the deal I cut. I have done nothing to hinder Amtrak nor have I offered proposals to prevent it from having the opportunity to fulfill its goals. I am the only one who believes a deal is a deal?

Mr. President, I am sick and tired of the Administration and Amtrak seeking to change the agreement which is law.

First the law required the establishment of an 11-member Amtrak Reform Council (ARC) comprised of individuals appointed by the House, Senate, and the President. The ARC is responsible for evaluating Amtrak’s performance and to make recommendations to Amtrak for further cost containment, productivity improvements, and financial reforms. The ARC is required to submit annual reports to Congress and it is responsible for determining if Amtrak is meeting its financial goals.

While the House and Senate fulfilled its duties to appoint its members, the President has yet to make all of his appointments. As such, Senator LOTT, myself, and Congressman SHUSTER encouraged the members to meet and begin carrying out its duties. It seems the Administration thought they could hold up the ARC from doing its work if it dragged its feet long enough but that is not the case. In fact, the Department of Transportation even resisted fulfilling its administrative duties associated with the ARC in an attempt to hinder the ARC. But the ARC members have not let DOT hold them back and they have begun a steady meeting schedule.

Next the law called for a new Reform Board to replace the Amtrak Board of Directors serving at the time of enactment. Since we expect Amtrak to try to reinvent itself and to operate like a real business, we included a provision to allow a new leadership to guide Amtrak and instill a “new culture” among Amtrak employees and management.

Mr. President, several provisions concerning the establishment of the new Board were included in the reform bill in an attempt to prompt timely action by the Administration and Congress. Unfortunately, the spirit of these provisions was met with little regard.

The law required the new Board to be in place by March 31, 1998. Yet, the Senate did not receive even a single nomination from the President until the eve of the Memorial Day Recess. Due to concerns that the Administration may drag its feet indefinitely, Amtrak’s authorization was linked to the nomination and confirmation of a new Board. Specifically, the law provides that if the new Reform Board has not assumed the responsibilities of the Amtrak Board of Directors before July 1st, Amtrak’s authorization would lapse. The law also automatically discharged pending Board nominations from the Senate Commerce Committee if the Committee had failed to act by July 1st.

Presidential nominations require Senate confirmation, with hearings and review by the appropriate Senate Committees accompanying nominations. Yet due to the lack of timely action by the Administration, the Commerce Committee had no opportunity to carry out its duties prior to the statutory automatic June 1st discharge. It is my view the Administration’s timing was a direct attempt to circumvent the Committee’s authority in this regard.

Mr. President, my position regarding the new Board was made clear from day one. I repeatedly voiced my concerns to the Administration each time I heard rumors of its plans to reappoint current members. I was very clear that the Commerce Committee would not report favorably any Board hold-overs and I remained firm on that position. I truly believed even the Administration would acknowledge we didn’t create a new Board only to reappoint the same members.

So what happened? The Administration sent up the nominations as Congress headed into a recess. Two of the six nominations needing confirmation were Board hold-overs—that is, one-third. As I have said before, the Administration must have known that the Commerce Committee would be unable to act on its pending business if it dragged its feet long enough to meet the statutory discharge date, given the Administration’s stealth nomination submission.

However, in an effort to ensure Amtrak’s authorization remained intact, I again worked in good faith with the Majority Leader and others to confirm some of the nominations in order to meet the deadline. The Commerce Committee now has an opportunity to consider whether the pending Board nominees should be approved and sent to the full Senate for a vote.

The law further provides for Amtrak to be free of operating subsidies within five years. If the ARC determines Amtrak is not meeting its fiscal goals, the ARC is to develop a plan for an alternative system. At the same time, Amtrak is to develop a plan for its liquidation. If at such time this occurs, the Administration must have known that the ARC would acknowledge we didn’t create a new Board only to reappoint the same members.

Unfortunately, the Administration is again attempting to get around the law. And this time, the Appropriators are helping.

The Appropriation bill proposes to prohibit Amtrak from paying its operating expenses with its capital funds. I am told this proposal is strictly due to budgetary scoring concerns. However, I am not sold.
With the stroke of a pen, this bill jeopardizes the integrity of the reform bill—specifically the sunset trigger. Amtrak’s proponents could just waive this bill as a demonstration that Amtrak is free of operating subsidies, since the bill does not include a line item for operating expenses as historically has been the case.

As I see it, Amtrak and the Administration are simply attempting to shift operating expenses into its capital budget, thereby backing away from agreements reached last year during the hard-fought reauthorization process. While the reauthorization placed a cap on the amount of money that may be appropriated in any one year for operational expenses or capital investments, the authorized levels were based on Amtrak’s own projected financial needs.

Mr. President, during the last days of negotiations on the reform legislation, you may recall certain members of the Amtrak Board of Directors negotiated a new labor agreement which raised salaries for union employees, thereby incurring a substantial increase in its operational costs. Amtrak’s projected net loss for FY 1998 is greater than the previous year” in part due to the Board’s own actions. Yet, the Board assured us at the time that the labor agreement would require no action by Congress—nor more importantly, would the labor agreement place any additional obligations on the taxpayers. However, shifting labor costs into the “capital” account could clearly result in the taxpayers once again being forced to cover expenses due to Amtrak’s poor management decisions.

We authorized Amtrak at funding levels based on its own projected needs. Further, we directed an independent financial assessment of Amtrak be carried out under the direction of the Inspector General of the Department of Transportation. That audit will be based in part on Amtrak’s Strategic Business Plan, including its projected operating and capital costs. Should Amtrak be permitted to significantly change the way it accounts for operating and capital expenses, an accurate accounting could be next to impossible.

The proposed change in the use of capital funds raises legitimate concerns whether Amtrak and the Administration are attempting to keep Amtrak free of operating subsidies, thereby shielding Amtrak’s financial situation and Strategic Business Plan projections a moving target.

Further, we have continually been told Amtrak has critical infrastructure investment needs which must be met if Amtrak is to have any chance of becoming a viable operation. Time and again we have been told Amtrak needed a dedicated source of capital. As I see it, the change has the potential of jeopardizing Amtrak’s abilities to meet its capital needs which it has sought so long to accomplish.

Therefore, the amendment I will offer is intended to put some semblance of discipline to P.L. 105-134.

Mr. BINGAMAN. I know the Chairman and Ranking Member are aware of the proposal in the state of New Mexico to start up a new park and ride transit system that would serve the cities of Los Alamos, Pojoaque, Española, and Santa Fe. I first brought this exciting proposal to the senators’ attention last September. Is the Chairman also aware that last August the State of New Mexico and the Los Alamos National Laboratory ran a two-week trial run of the proposed transit system and that the demonstration was an enormous success, with over 1500 riders per day and an estimated reduction of 750 vehicles?

Mr. SHELBY. Yes, Senator, I am aware that last year the subcommittee provided $1.5 million to the state to begin full-time transit service in Northern New Mexico this fall using leased buses and borrowed facilities. Is the Ranking Member also aware that the commitment of the local governments to the program has also been demonstrated by individual contributions of $100,000 each from the City of Santa Fe, Santa Fe County, Los Alamos County, and the Los Alamos National Laboratory?

Mr. LAUTENBERG. Yes, Senator BINGAMAN, I am aware of the funding commitments from the local governments and Los Alamos Lab for the Northern New Mexico Park and Ride.

Mr. BINGAMAN. Is my understanding correct that for fiscal year 1999 the Transportation Appropriations Subcommittee did not identify individual programs and funding amounts for discretionary grants for bus and bus facilities with the other body may present an opportunity to identify individual projects and funding amounts? If that is indeed the case, can the citizens of Northern New Mexico count on the Senators’ efforts to identify $10 million to purchase the needed buses and bus facilities to allow the Park and Ride program to continue beyond the first year?

Mr. SHELBY. The Senator can be assured we will give the project our full consideration in the conference.

Mr. BINGAMAN. I appreciate knowing of the Senator from New Mexico’s interest in the Northern New Mexico Park and Ride.
Ranking Member and to seek your help in writing to include this House language in the Conference Report.

Mr. SHELBY. Yes, we appreciate the concerns raised by the Senators from Delaware. We agree with the House Report in regard to this item, in that we will work with you to ensure that these additional overhead costs are not imposed on the airport sponsor willing to construct the new control tower.

Mr. BIDEN. I thank the Senator, and I yield the floor.

Mr. DeWINE. Mr. President, I would like to take a moment to commend the Chairman of the Appropriations Subcommittee on Transportation, Senator Shelby, for the work he has done on this bill. It is not easy to balance the competing interests in any appropriations bill, but I think it is even more difficult on transportation appropriations. I would also like to call attention to one area of the Senate's bill which is very different than the House version.

The Federal Automated Surface Observing System (ASOS) Program, which began in the late 1980's, is sponsored by the Federal Aviation Administration (FAA), the National Weather Service (NWS), and the Department of Defense (DoD) and currently includes over 860 ASOS units. For its part, as of December 2, 1997, the FAA had procured 69 ASOS units. Yet only 297 of these units had been commissioned as of June 16, 1998.

The current Senate bill provides $20.97 million for the Automated Surface Observing System (ASOS). This amount is $11 million more than the Administration request. According to the Committee report, $9.9 million is to be used to commission systems that have already been purchased. This only makes sense. After all, the Federal government purchased these systems. They might as well be used.

Last year, Congress appropriated $10 million more than the Administration request to procure nearly 30 more ASOS units. If the past is an accurate indicator, these units will sit idle until FAA finds the funds to commission them. In essence, what we are doing is purchasing technology with great potential but fraught with high maintenance costs and are going to be unusable for a number of years when it is my understanding that there are other alternatives that cost less and can be used immediately. In fact, I understand that one of these alternatives, the Automated Weather Observing System (AWOS) is very popular in many states, including the Chairman's home state of Alabama.

I would draw my colleague's attention to the action taken yesterday by the House Committee on Appropriations. In its companion to the bill before us, that panel declined to fund any of these systems for the coming fiscal year but noted the Senate Committee's action. The House report language says that both systems (AWOS and ASOS) are "meritorious" and takes the strong position that if additional funding beyond the Administration's request is provided in the final conference action, that "an equitable distribution" of the additional funding should be provided for both systems.

I strongly support the action taken by our House colleagues and urge my good friend, the Chairman of the Subcommittee to join me to inject fairness, cost-effectiveness and competition into this important project.

Mr. SHELBY. I thank the Senator from Ohio for his statement. I have listened with interest to his remarks and recognize his concerns. The Senator from Ohio has raised very compelling arguments and I will carefully consider his request during the conference committee's deliberations.

Mr. KOHL. I would like to engage Senator Shelby in a colloquy with respect to an issue of importance to my State, the entire Midwest Region. As you may know, Wisconsin and eight other Midwestern states, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska and Ohio, working with Amtrak, have undertaken planning studies of a Midwestern corridor system that is seen to be hubbed in Chicago. The regional rail system would provide modern service on all existing rail corridors as well as several new corridors within the nine-state region. By connecting major Midwestern cities, the Midwest Corridor System and revenue projections have revealed that the rail network would operate without subsidy, enhance regional economic development and increase mobility in corridors with congested highway systems.

To date, the states and Amtrak have contributed $468,500. The Federal Railroad Administration has also contributed $200,000 to this endeavor. I understand that the Committee grappled with unique constraints this year due to TEA-21. Implementation planning funds are needed, however, to move this important project forward. For this reason, I do hope that I can count on your assistance if additional resources become available in conference and as this process moves forward.

Mr. SHELBY. I know this initiative was of interest to the senior Senator from Wisconsin and that you had requested funds for your State and the other Midwestern states could complete detailed implementation planning. As you know, we were unable to fund high speed rail corridor planning studies in the Senate Transportation Appropriations bill due to budget constraints. However, I will work with you and if we revisit this issue in conference and take another look at corridor planning studies, I assure you that the Midwest Rail initiative will receive every consideration.

Mr. KOHL. Mr. President, I rise to briefly discuss a provision in this legislation which I was pleased to sponsor. The interstate network of railroads faces several problems. As you are aware, several areas in the United States currently experience serious rail freight congestion. We frequently hear of delays on the delivery of goods for two to three weeks because of rail congestion. With the high volume of traffic this year, there has also been an increase in rail related accidents. There is no comprehensive system which manages the interface between trains and cars at the huge number of highway crossings in the United States. In South Carolina alone, there are over 32,000 crossings. This situation is compounded in many parts of the country. Congestion is worsened and safety is jeopardized because passenger trains, high-speed trains, and freight trains all use the same track.

Unlike the national tracking of air traffic that assures millions of safe passenger air miles each year, comprehensive automated management and control of movement and location in the rail industry does not exist. The Transportation Safety Research Alliance, a non-profit public/private partnership which includes industry and research institutions, is seeking to develop an advanced, integrated technology system that would provide real time, seamless, and high accuracy crossing control for the rail freight industry. Without such a system, we are going to experience more accidents endangering the public safety and more delays to shippers and consumers that harm the Nation's commerce. This bill includes language directing the Federal Railroad Administration to provide $500,000 towards the development of this project. I want to thank the Subcommittee Chairman, Senator Shelby, and the Ranking Member, Senator Lautenberg, for including this language. I appreciate your leadership in the Conference to ensure that this provision is included in the Conference Report.

Mr. SANTORUM. I also wish to express my support for this provision. One of the key industry members of the Transportation Safety Alliance, Union Switch and Signal, is headquartered in Pittsburgh, Pennsylvania. They manufacture signaling automation and control systems for railroads, and are at the cutting edge of an industry which can help our country achieve greater rail safety in the 21st century.

Senator LAUTENBERG. The issue of rail safety in this country is of great importance to me. I appreciate your comments, and will work to keep this provision in the Conference Report.

ADVANCED CIVIL SPEED ENFORCEMENT SYSTEMS

Mr. BIDEN. Mr. President, I say to my good friend and colleague, the distinguished Chairman of the Finance Committee, that I note with interest that the report on the bill before us provides funds in the amount of $1 million for support systems on all locomotives operating between New Haven, CT, and Boston, MA.

Mr. LAUTENBERG. That is correct.
Mr. ROTH. We have a question for the distinguished Ranking Member of the Transportation Appropriations Subcommittee. Is it the intent of this legislation that installation of the advanced civil enforcement systems be performed with the expertise, capability, and prior experience to assemble and test cab signal equipment?

Mr. BIDEN. These new speed monitoring systems are important to the operation of the Northeast corridor and we want to ensure that the installation is done at a facility where the workers have the skills and experience to do the job right.

Mr. LAUTENBERG. That is our intent; that is the facility that should do the job.

PORTLAND LIGHT RAIL FUNDING

Mr. WYDEN. Mr. President, I would like to engage the Chairman and Ranking Member of the Transportation Appropriations Subcommittee in a colloquy. The funding provided for Portland Light Rail. The Committee Report on the Transportation Appropriations Bill has a single line item for the Portland Westside and South-North Light Rail projects. However, the Committee report description is ambiguous as to how the funding provided may be used. The description reads:

Portland Westside and South-north LRT projects—The Committee recommends $26,700,000 for the Portland Westside LRT project.

The report then goes on to describe both projects. It is the Committee's intention to provide this funding for both the Westside and south-north project.

Mr. SHELBY. Yes. The Committee intends the funding to be available for both projects.

Mr. WYDEN. I thank the Chairman for this clarification. I would also ask whether the Committee intends to allow the $26.7 million amount provided for Portland light rail to be utilized either for completion of the Westside project or final design and right-of-way acquisition for the south-north project?

Mr. LAUTENBERG. Yes. The Committee intends this funding to be available for either of these purposes.

Mr. WYDEN. I thank the distinguished Chairman and Ranking Member for their assistance in providing funding for both of these important transit projects.

CHEHALIS 1-5 FLOOD CONTROL PROJECT

Mr. GORTON. Mr. Chairman, I would like to bring to your attention a project that is of utmost importance to Southwest Washington state, the Chehalis 1-5 Flood Control Project. You were gracious enough to include $250,000 for this project in the manager's amendment in full committee, and I would like to thank you for your attention to the project. Unfortunately, this project, which will ultimately cost taxpayers $18 million less than the initial option proposed by the Washington State Department of Transportation, will require $2.5 million in FY 1999 to wade through the myriad of permits that must be completed before this project can move forward. I would like to work with you in conference to ensure that this project has the federal support to become reality.

Mr. SHELBY. I appreciate your bringing this matter to my attention. I look forward to working with you in conference to ensure that an innovative project such as the Chehalis 1-5 Flood Control Project will receive the federal commitment that it deserves.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

AMENDMENT NO. 3327

(Purpose: To provide additional resources for the United States Coast Guard for drug interdiction efforts)

Mr. DEWINE. Mr. President, I have an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio [Mr. DEWINE], for himself, Mr. GRAHAM, Mr. BOND, Mr. GRASSLEY and Mr. FAIRCLOTH, proposes an amendment numbered 3327.

Mr. DEWINE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Beginning on page 8 of the bill, in line 17 after the colon insert: Provided further, That not less than $2,000,000 shall be available to support restored counter-drug narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike `$165,215,000'' and insert `$158,468,000''.

On page 9 of the bill, in line 11, strike `$35,389,000'' and insert `$44,789,000''.

On page 4 of the bill, in line 17, strike `$215,473,000'' and insert `$234,553,000''.

On page 9 of the bill, in line 4, strike `$46,131,000'' and insert `$55,131,000''.

On page 9, of the bill, in line 1, strike `$215,473,000'' and insert `$234,553,000''.

On page 9 of the bill, in line 8, strike `$165,215,000'' and insert `$158,468,000''.

On page 9 of the bill, in line 7, strike `$46,131,000'' and insert `$55,131,000''.

On page 9 of the bill, in line 9 strike `$35,389,000'' and insert `$44,789,000''.

On page 7 of the bill, in line 15, strike `$10,500,000'' and insert `$17,247,000''.

Mr. DEWINE. Mr. President, yesterday 15 of my colleagues and I introduced the Western Hemisphere Drug Elimination Act, legislation that would restore balance to our comprehensive antidrug strategy. My friend from Florida, Congressman BILL MCCOLLUM, is leading a similar effort in the House of Representatives.

This legislation is a $2.6 billion effort—$2.6 billion over the next 3 years. This is an outline. It is a blueprint to refocus our resources to our antidrug effort. Unfortunately, for the last 5 years, the effort that we are putting in is in regard to interdiction has gone down significantly as a percentage of our total budget. And we need to restore that balance.

This legislation is a $2.6 billion, 3-year investment to reduce the amount of drugs coming into this country and to drive up the cost of drug trafficking. This legislation, together with the amendment that I have offered, will drive up the price of drugs and, most importantly, will drive down the incidence of the use of drugs in our country. This is an important investment in the future of America and the future of our children.

Today, one day later, after having introduced this bill, the Senate will, I hope, take the first step towards realizing that investment. I am pleased to have just sent to the desk an amendment offered along with Senator COVERDELL, Senator GRAHAM of Florida, Senator BOND, and Senator GRASSLEY, an amendment that will provide much needed resources for the U.S. Coast Guard, resources that will increase their drug interdiction capability.

Specifically, Mr. President, our amendment would accomplish two goals. One, it would increase the funds available for equipment to drug interdiction by approximately $37.5 million. Second, the amendment would set aside resources needed to restore a much needed drug interdiction operation in the Caribbean. Mr. President, I see the distinguished chairman of the Transportation Subcommittee, Senator SHELBY, on the floor. I would like to engage in a colloquy with him to go over the particulars of the bipartisan amendment that I have offered.

First, I would like, before I do that, to discuss the $37.5 million secured for additional resources.

Specifically, Mr. President, with respect to sea-based resources, our amendment would enable the Coast Guard to reactivate one T-AGOS vessel and acquire two additional T-AGOS vessels. These vessels, originally Navy submarines, have proved to be quite valuable for counterdrug operations because they have the room needed for command and control equipment, such as sensors and communications equipment.

In addition, the amendment also would enable the Coast Guard to acquire a maritime interdiction patrol boat and satellite communications equipment for patrol boats.

With respect to Coast Guard air operations, our amendment would allow for the reactivation of three maritime control aircraft. These are jet aircraft that would be used by the Coast Guard to track and pursue drug traffickers.

Finally, our amendment would allow for the acquisition of forward-looking infrared systems. This technology enables the Coast Guard to track heat signatures in the water.

Why is this important? Well, drug traffickers use the rivers in the Caribbean, use what we call, and they call, "go-fast" boats, that are too fast for detection in tracking using conventional radar. The infrared systems can
in the Caribbean from Haiti to the Bahamas—”

Mr. SHELBY. Thank you. Mr. President.

Mr. LAUTENBERG. Thank you, Senator.

Mr. SHELBY. I would like to express my thanks to the Senator for his leadership in assisting with this amendment.

Mr. LAUTENBERG. I appreciate your concern for the drug interdiction mission I talked about earlier today, and I am particularly encouraged by your support of the DeWine-Graham amendment, but I have to agree with my colleague that what Senator DeWine is offering to do makes a lot of sense. I will work with Senator DeWine and Senator Lautenberg in the conference when we get into the seriousness of what we can do with money. Interdiction here dealing with drugs should be and will be one of our No. 1 priorities.

Mr. LAUTENBERG. Thank you, Senator.

Mr. SHELBY. Mr. President, let me thank both of my colleagues, the ranking member and the chairman, for their great cooperation. I understand my colleague has expressed his concerns about the money situation. I look forward to working with both Members in regard to that.

Mr. LAUTENBERG. I appreciate your concern for the Coast Guard. I believe this is money very well spent. I think the Coast Guard knows what to do with its money. They know how to get the job done. I have been out literally in the field or on the sea with them to see what they can do. They do a good job getting it done.

Mr. SHELBY. I move to reconsider the vote.

Mr. LAUTENBERG. I move to reconsider the vote.

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Mr. SHELBY. I move to reconsider the vote.
The motion to lay on the table was agreed to.

DELAWARE RIVER, PENNSYLVANIA ITS DEPLOYMENT PROJECT

Mr. SPECTER. Mr. President, I have sought recognition to comment on the inclusion in the bill of $4 million at my request for an integral transportation system project across the Delaware River. I sought these funds at the request of the Delaware River Port Authority, which is implementing electronic toll and traffic management systems for the Ben Franklin, Walt Whitman, Commodore Barry, and Betsy Ross Bridges in the Pennsylvania-New Jersey-Delaware region, which are operated and maintained by the Authority and serve thousands of drivers each day, including substantial commercial traffic.

I believe that it is critical that we do all that is possible to alleviate traffic congestion on these important river crossings, for the sake of improving the quality of life for area residents and others who drive on the bridges and to reduce air pollution in Philadelphia and its suburbs.

I thank the Chairman for including funds for deployment of an ITS system over the Delaware River, which will benefit both Pennsylvania and New Jersey.

Mr. SHELBY. I am familiar with the Delaware River project discussed by my colleague from Pennsylvania and Delaware and its suburbs. The Delaware River Port Authority project is particularly well-suited for consideration by the Federal Highway Administration, for funding under this legislation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for further debate on the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments en bloc are as follows:

AMENDMENT NO. 3328

(Purpose: To ensure that the policies and goals of the Amtrak Reform and Accountability Act of 1997 will be met, and for other purposes)

At the appropriate place insert:

SEC. 3. Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 92), and section 3 of the act of October 17, 1952 (66 Stat. 571, chapter 92), each as amended in the proviso—

(1) by striking "That" and all that follows through "the collection of" and inserting "That the commission may collect"; and

(2) by striking ", shall cease" and all that follows through the period at the end and inserting a period.

Mr. SHELBY. Mr. President, I ask unanimous consent that the amendments be disposed of en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. We agree to the amendments.

Mr. SHELBY. The amendments have been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendments en bloc.

The amendments (Nos. 3328 and 3329) were agreed to.

Mr. SHELBY. I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.
"(c) Limitation on applicability.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the first-class premium cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary shall identify and enforce an alternative smoking prohibition in lieu of subsection (b) that has been negotiated with the Secretary and the objecting foreign government through a bilateral negotiation process.

(d) Regulations.—The Secretary shall prescribe regulations necessary to carry out this section.

(b) Effective date.—The amendment may be necessary to ensure that each air carrier, the smoking prohibitions contained in subsection (a) shall take effect on the 60th day following the date of enactment of this Act.

AMENDMENT NO. 3333

At the appropriate place, insert the following:

SEC. 3. HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100-mile air radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

AMENDMENT NO. 3334

On page 79 of the bill, in line 21 before the period, insert the following:

That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall, by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49, United States Code) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration: Provided further, That the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall, by January 1, 1999, take such actions as may be necessary to ensure the placement of signs, on each Federal-aid highway (as that term is defined in section 101 of title 23, United States Code), that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of the Federal-aid highway construction and maintenance.

AMENDMENT NO. 3335

(Purpose: To require the National Transportation Safety Board to reimburse the State of New York for certain costs associated with the crash of TWA Flight 800)

At the appropriate place in title III, insert the following:

SEC. 3. REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York, and local counties in New York for certain costs associated with the crash of TWA Flight 800.

Passed, be inserted in lieu thereof; that the House bill, as amended, be read for a third time and passed, the motion to reconsider the vote be laid upon the table, that the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint conferees on the part of the Senate, and that the foregoing occur without any intervening action or debate.

The PRESIDENT PRO Tempore. Without objection, it is so ordered.

Mr. SHELBY. I further ask unanimous consent that when the Senate passes the House companion measure, as amended, the passage of S. 2307 be vitiated and the bill be indefinitely postponed.

The PRESIDENT PRO Tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. SHELBY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDENT PRO Tempore. Without objection, it is so ordered.

SENIOR TIM HUTCHINSON RECEIVES GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, yesterday, Senator Hutchinson presided his 100th hour of this Congress and, therefore, is the latest recipient of the Senate's Golden Gavel Award.

Senator Hutchinson and his scheduling staff have consistently adjusted their schedule to assist whenever presiding difficulties have occurred. For his notable dedication to the Senator's continued commitment to his presiding duties, we extend our thanks and congratulations.

CORRECTION OF THE RECORD

Mr. BYRD. Mr. President, in my speech of June 15, 1996, titled "Anniversary of the Great Compromise," on page 8, 898, in the first column thereof, the word "unilateral" in the second line of the article which is the last paragraph should be "unicameral," "unicameral," instead of "unilateral.

I ask unanimous consent that the permanent record show the correction. The PRESIDENT PRO Tempore. Without objection, it is so ordered.

KIDS AND SEX

Mr. BYRD. Mr. President, I rise today to express my shock and utter amazement regarding the cover story in the June 15 issue of Time magazine. It is entitled "Everything your kids already know about sex.

Now, I know that any octogenarian like myself is going to be immediately viewed as a dinosaur and a prude on a
subject such as this, but I tell you that this article should alarm every parent and shake up every community in America.

The piece opens up with an account of an 14-year-old couple, who walk into a Teen Center in Salt Lake City, Utah (of all places) and inquire about steps which they might take to heighten their arousal during sex. This is a 14-year-old couple, I remind Senators. It continues with example after example of youngsters as young as 9 years of age who are sexually active, whether who have had multiple sexual partners before ever reaching the legal age of consent. Here we are talking about youngsters as young as 9 years of age. Many of these sexually newly-age babies (and that's what they are, babies) claim that they get all the information they need to be proficient in the sexual world through such prime time TV shows as "Dawson Creek," which boasts of a character, Jen, who loses her virginity at 12 while drunk, or another favorite show, "Buffy the Vampire Slayer," in which Angel, a male vampire, "turned bad" after having sex with the 17-year-old Buffy.

What, in the name of common sense, I ask, is going on in this Nation? Why are we letting our kids watch this morally degrading, thoroughly demeaning, junk on the airwaves? Why in heaven's name don't the purveyors of such trash feel any sense of responsibility toward the youth of our nation?

Have the parents of these kids just given up trying to guide and protect them and teach them some sense of moral responsibility about their own bodies? I am afraid I have no answers, only legions of questions about what sort of a society is going to evolve from all of this unhealthy glorification of sex.

I know this much. We have got to find a way to inject some measure of spirituality into our culture, some kind of reverence for something besides erotica, and we have got to find some kind of counterpart to the cheap, amoral, directionless, thoroughly disgusting popular mores which are blasted daily at our kids over the airwaves. I believe one thing we could do in this Congress is to find an acceptable way to return prayer to our schools and in public assemblies. I believe that it may do so without doing violence to the first amendment, and I believe a determination on whether the Nation is going and in which the Nation is going and in one of the interpretations of the Constitution as being absolutely sacred on the part of those of us who claim to be leaders. I know that there are concerns about the first amendment, and I hesitate to offer an amendment that would, in effect, amend the first amendment in some respect, but I am worried about the mounting evidence that is blatantly irresponsible on the part of those of us who claim to be leaders.

I urge all Members of the Senate and the Judiciary Committee of the Senate— and I urge the Judiciary Committee of the Senate—will at least hold hearings on this important subject, if not this year, certainly next year.

We have reached a point in our history to continue to ignore the mounting evidence is blatantly irresponsible on the part of those of us who claim to be leaders.

I am concerned about the future of the Nation. I am concerned for my own posterity's sake, as I say. I do not have to look far to see the answers. A blind man can see that something bad is happening to our society. One does not have to travel far to find out what is causing a large part of it. One has only to go to the living room and turn on that tube and watch for a day the children that has been programmed. They will see from what source many of our problems are emanating.

I ask unanimous consent that the article entitled "Where'd You Learn That?" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Time Magazine]

WHERE'D YOU LEARN THAT—AMERICAN KIDS ARE IN THE MIDST OF THEIR OWN SEXUAL REVOLUTION, ONE LEAVING MANY PARENTS FEELING CONFUSED AND VIRTUALLY POWER-LESS

(By Ron Stodghill II)

The cute little couple looked as if they should be sauntering through Great Adventure or waiting in line for tokens at the local arcade. Instead, the 14-year-olds walked purposefully into the Teen Center in an urban Salt Lake City, Utah. They didn't mince words about their reason for stopping in. For quite some time, usually after school and on a day the boy had to be modified or changed to save this very Nation, then I am willing to at least discuss it and debate it and make a determination on whether we should. I do not view the first amendment as being absolutely sacrosanct. I am becoming very concerned about the trend that we are seeing happening in this country and about the direction in which the Nation is going and in considerable measure because of some of the interpretations of the Constitu- tion, some of the interpretations of the first amendment that we have seen emanating from our courts.

I urge all Members of the Senate and all parents to read the Time magazine piece and wake up and smell the coffee. The alarm bells are ringing all over America, and we have got to come to grips with what is happening and try to answer the call.

Now, I will not be around on this great big planet that perhaps we do have children and I have grandchildren. Incidentally, I have a grand- son who acquired his Ph.D. in physics yesterday at the University of Virginia. And he has a brother just 3 years older than himself who secured his Ph.D. in physics from the University of Virginia 3 years ago. So these are outstanding examples of the fine young people we have in this country, whole-some young people. They are not all bad, by any means. Most of them are not. But we do not often enough hear about the good things our young people are doing. They are in the laboratories. They are in the libraries. They are studying, trying to get ahead, and we are not as aware of what they are doing as we are of those who make mistakes, and we all make mistakes, but of those who perhaps are not doing as well.

I am concerned about the future of the Nation. I am concerned for my own posterity's sake, as I say. I do not have to look far to see the answers. A blind man can see that something bad is happening to our society. One does not have to travel far to find out what is causing a large part of it. One has only to go to the living room and turn on that tube and watch for a day the children that has been programmed. They will see from what source many of our problems are emanating.

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women's health book Our Bodies, Ourselves, to help bring them closer in bed. She also brought up the question of whether a G-spot even exists. As her visitors were leaving, Towle took a more hiệnckre and asked them out the door with a billion condoms."

G-spots. Orgasms. Condoms. We all know kids who do these things and how they have changed! One teacher recalls a 10-year-old raising his hand to ask her to define oral sex. "He was quickly followed by an 8-year-old who asked 'What's sex? Do you like it? And, yeah, and what's an anal?" These are the easy questions. Ronda Sheared, who teaches sex education in Pinellas County, Fla., was asked by a group of seventh-graders: "What is that second kweif, which the kids say is the noise a vagina makes during or after sex. "And how do you keep it from making this noise?"
The sex-seeking behavior is often turned to by the school officials were forced to institute a sexual-assault policy owing to a sharp rise in sexual language, groping, pinching and bra-snapping incidents among sixth-, seventh- and eighth-graders. Sex among kids in Pensacola, Fla., became so pervasive that students of a private Christian junior high school are now asked to sign cards vowing not to have sex until they marry. But the cards don't mean anything, says a 14-year-old boy at the school: "It's broken promises."

It's easy enough to blame everything on television and entertainment, even the news. At a Denver middle school, boys rationalize their actions this way: "If the President can do it, why can't we?" White House sex scanning is a thing, and can how about any avoid Viagra and virility? Or public discussions of sexually transmitted diseases like AIDS and herpes? Young girls have lip-synched often enough to Alanis Morissette's big hit of a couple of years ago, You Oughta Know, to have found the sex nestled in the lyric. But their actions this way: "If the President can do it, why can't we?"

Parents who are aware of this cultural revolution seem mostly torn between two approaches: preaching abstinence or suggesting prophylactics—and thus condoning sex. Says Cory Hollis, 37, a father of three in the Salt Lake City area: "I don't want to see my teenage son ruin his life. But if he's going to do it, I told him that I'd go out and get him condoms myself." Most parents seem too afraid of their kids to the subject; and the decline of two-parent households, at least physically. But adolescents curiosity about sex is fed by the sex nestled in the lyric. But the condoms myself."

"The remarkable—and in ways lamentable—product of youthful promiscuity and higher sexual IQ is the degree to which kids learn to love sex from the popular culture and that reaches our seductively to them at every turn. One of the most positive results: the incidence of sexually transmitted diseases has fallen. And teen age pregnancy is declining. Over the past few years, kids have managed to chip away at the teenage birthrate, which in 1991 peaked at 62.1 births per 1,000 females. Since then the birthrate has dropped 12% to 54.7. Surveys suggest that as many as two thirds of teenagers now use condoms, a pro- the condom?"

Parents of a young son in Utah: "If you're feeling sexy, so she can have sex, but tune out other stuff. "The personal-development classes are a joke," says Sarah, 16, of Pensacola. "Even the teacher looks uninterested in having a conversation. If you're just going to ask a serious question." Says Shana, a 13-year-old from Denver: "A lot of it is old and boring. They'll talk about not having sex before marriage, but no one listens. I use that class for study hall." Shana says she is glad "sex isn't so taboo now, because I'm not the only one who has gotten pregnant." But she also says that "it's creepy and kind of scary that it seems to be happening so early, and all this talk about it."

"The condoms?" asks Hollis. "You can be sexy, but there's nothing comfortable about it. If they figure if they can fall in love in a month, then they can have sex in a month too." When she tried discouraging a classmate from having sex for the first time, the friend turned to her and said, "My God, Shana. It's me," says Ryan. "What would have happened if she had a baby? She acts to make progress," says Dr. John Santelli, a prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser is turning to groups like the Kaiser Family Foundation, an independent health-policy think tank, for help in adding more depth and accuracy to stories involving sex. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser is turning to groups like the Kaiser Family Foundation, an independent health-policy think tank, for help in adding more depth and accuracy to stories involving sex. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser is turning to groups like the Kaiser Family Foundation, an independent health-policy think tank, for help in adding more depth and accuracy to stories involving sex. Kaiser has consulted on daytime soaps General Hospital and One Life to Live as well as the prime time drama ER on subjects ranging from teen-age pregnancy to women's reproductive rights. Kaiser is turning to groups like the Kaiser Family Foundation, an independent health-policy think tank, for help in adding more depth and accuracy to stories involving sex.
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CONGRESSIONAL RECORD — SENATE

With so much talk of sex in the air, the extinction of the hapless, sexually naive kid
seems an inevitability. Indeed, kids today as
young as seven to 10 are picking up the first
details of sex even in Saturday-morning cartoons. Brett, a 14-year-old in Denver, says it
doesn’t matter to him whether his parents
chat with him about sex or not because he
gets so much from TV. Whenever he’s curious about something sexual, he channel-surfs
his way to certainty. ‘‘If you watch TV,
they’ve got everything you want to know,’’
he says. ‘‘That’s how I learned to kiss, when
I was eight. And the girl told me, ‘Oh, you
sure know how to do it.’ ’’
Even if kids don’t watch certain television
shows, they know the programs exist and are
bedazzled by the forbidden. From schoolyard
word of mouth, eight-year-old Jeff in Chicago has heard all about the foul-mouthed
kids in the raunchily plotted South Park,
and even though he has never seen the show,
he can describe certain episodes in detail.
(He is also familiar with the AIDS theme of
the musical Rent because he’s heard the CD
over and over.) Argentina, 16, in Detroit,
says, ‘‘TV makes sex look like this big
game.’’ Her friend Michael, 17, adds, ‘They
make sex look like Monopoly or something.
You have to do it in order to get to the next
level.’’
Child experts say that by the time many
kids hit adolescence, they have reached a
point where they aren’t particularly obsessed with sex but have grown to accept the
notion that solid courtships—or at least
strong physical attractions—potentially lead
to sexual intercourse. Instead of denying it,
they get an early start preparing for it—and
playing and perceiving the roles prescribed
for them. In Nashville, 10-year-old Brantley
whispers about a classmate, ‘‘There’s this
girl I know, she’s nine years old, and she already shaves her legs and plucks her eyebrows, and I’ve heard she’s had sex. She even
has bigger boobs than my mom!’’
The playacting can eventually lead to discipline problems at school. Alan Skriloff, assistant superintendent of personnel and curriculum for New Jersey’s North Brunswick
school system, notes that there has been an
increase in mock-sexual behavior in buses
carrying students to school. He insists there
have been no incidents of sexual assault but,
he says, ‘‘we’ve deal with kids simulating
sexual intercourse and simulating masturbation. It’s very disturbing to the other children and to the parents, obviously.’’ Though
Skriloff says that girls are often the
initiators of such conduct, in most school
districts the aggressors are usually boys.
Nan Stein, a senior researcher at the Wesley College Center for Research on Women,
believes sexual violence and harassment is
on the rise in schools, and she says, ‘‘It’s
happening between kids who are dating or
want to be dating or used to date.’’ Linda
Osmundson, executive director of the Center
Against Spouse Abuse in St. Petersburg,
Fla., notes that ‘‘it seems to be coming down
to younger and younger girls who feel that if
they don’t pair up with these guys, they’ll
have no position in their lives. They are
pressured into lots of sexual activity.’’ In
this process of socialization, ‘‘no’’ is becoming less and less an option.
In such a world, schools focus on teaching
scientific realism rather than virginity. SexEd teachers tread lightly on the moral questions of sexual intimacy while going heavy
on the risk of pregnancy or a sexually transmitted disease. Indeed, health educators in
some school districts complain that teaching
abstinence to kids today is getting to be a
futile exercise. Using less final terms like
‘‘postpone’’ or ‘‘delay’’ helps draw some kids
in, but semantics often isn’t the problem. In
a Florida survey, the state found that 75% of

kids had experienced sexual intercourse by
the time they reached 12th grade, with some
20% of the kids having had six or more sexual partners. Rick Colonno, father of a 16year-old son and 14-year-old daughter in Arvada, Colo., views sex ed in schools as a necessary evil to fill the void that exists in
many homes. Still, he’s bothered by what he
sees as a subliminal endorsement of sex by
authorities. ‘‘What they’re doing,’’ he says,
‘‘is preparing you for sex and then saying,
‘But don’t have it.’ ’’
With breathtaking pragmatism, kids look
for ways to pursue their sex life while avoiding pregnancy or disease. Rhonda Sheared,
the Florida sex-ed teacher, says a growing
number of kids are asking questions about
oral and anal sex because they’ve discovered
that it allows them to be sexually active
without risking pregnancy. As part of the
Pinellas County program, students in middle
and high school write questions anonymously, and, as Sheared says, ‘‘they’re always looking for the loophole.’’
A verbatim sampling of some questions:
‘‘Can you get AIDS from fingering a girl it
you have no cuts? Through your fingernails?’’
‘‘Can you get AIDS from ‘69’?’’
‘‘If you shave your vagina or penis, can
that get rid of crabs?’’
‘‘If yellowish stuff comes out of a girl, does
it mean you have herpes, or can it just happen if your period is due, along with abdominal pains?’’
‘‘When sperm hits the air, does it die or
stay alive for 10 days?’’
Ideally, most kids say, they would prefer
their parents do the tutoring, but they realize that’s unlikely. For years psychologists
and sociologists have warned about a new
generation gap, one created not so much by
different morals and social outlooks as by
career-driven parents, the economic necessity of two incomes leaving parents little
time for talks with their children. Recent
studies indicate that many teens think parents are the most accurate source of information and would like to talk to them more
about sex and sexual ethics but can’t get
their attention long enough. Shana sees the
conundrum this way: ‘‘Parents haven’t set
boundaries, but they are expecting them.’’
Yet some parents are working harder to
counsel their kids on sex. Cathy Wolf, 29, of
North Wales, Pa., says she grew up learning
about sex largely from her friends and from
reading controversial books. Open-minded
and proactive, she says she has returned to a
book she once sought out for advice, Judy
Blume’s novel Are You There God? It’s Me,
Margaret, and is reading it to her two boys,
8 and 11. The novel discusses the awkwardness of adolescence, including sexual
stirrings. ‘‘That book was forbidden to me as
a kid,’’ Wolf says. ‘‘I’m hoping to give them
a different perspective about sex, to expose
them to this kind of subject matter before
they find out about it themselves.’’ Movies
and television are a prod and a challenge to
Wolf. In Grease, which is rated PG and was
recently re-released, the character Rizzo
‘‘says something about ‘sloppy seconds,’ you
know, the fact that a guy wouldn’t want to
do it with a girl who had just done it with
another guy. There’s also another point
where they talk about condoms. Both Jacob
and Joel wanted an explanation, so I provided it for them.’’
Most kids, though, lament that their parents aren’t much help at all on sexual matters. They either avoid the subject, miss the
mark by starting the discussion too long before or after the sexual encounter, or just
plain stonewall them. ‘‘I was nine when I
asked my mother the Big Question,’’ says
Michael, in Detroit. ‘‘I’ll never forget. She
took out her driver’s license and pointed to

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the line about male or female. ‘That is sex,’
she
said.’’
Laurel,
a
17-year-old
in
Murfreesboro, Tenn., wishes her parents had
taken more time with her to shed light on
the subject. When she was six and her sister
was nine, ‘‘my mom sat us down, and we had
the sex talk,’’ Laurel says. ‘‘But when I was
10, we moved in with my dad, and he never
talked about it. He would leave the room if
a commercial for a feminine product came
on TV.’’ And when her sister finally had sex,
at 16, even her mother’s vaunted openness
crumbled. ‘‘She talked to my mom about it
and ended up feeling like a whore because
even though my mom always said we could
talk to her about anything, she didn’t want
to hear that her daughter had slept with a
boy.’’
Part of the problem for many adults is
that they aren’t quite sure how they feel
about teenage sex. A third of adults think
adolescent sexual activity is wrong, while a
majority of adults think it’s O.K. and, under
certain conditions, normal, healthy behavior, according to the Alan Guttmacher Institute, a nonprofit, reproductive-health research group. In one breath, parents say they
perceive it as a public-health issue and want
more information about sexual behavior and
its consequences, easier access to contraceptives and more material in the media about
responsible human and sexual interaction.
And in the next breath, they claim it’s a
moral issue to be resolved through preaching
abstinence and the virtues of virginity and
getting the trash off TV. ‘‘You start out
talking about condoms in this country, and
you end up fighting about the future of the
American family,’’ say Sarah Brown, director of the Campaign Against Teen Pregnancy. ‘‘Teens just end up frozen like a deer
in headlights.’’
Not all kids are happy with television’s
usurping the role of village griot. Many say
they’ve become bored by—and even sent—
sexual themes that seem pointless and even
a distraction from the information or entertainment they’re seeking. ‘‘It’s like everywhere,’’ says Ryan, a 13-year-old seventhgrader in Denver, ‘‘even in Skateboarding
[magazine]. It’s become so normal it doesn’t
even affect you. On TV, out of nowhere,
they’ll begin talking about masturbation.’’
Another Ryan, 13, in the eighth grade at the
same school, agrees: ‘‘There’s sex in the cartoons and messed-up people on the talk
shows—‘My lover sleeping with my best
friend,’ I can remember the jumping-condom
ads. There’s just too much of it all.’’
Many kids are torn between living up to a
moral code espoused by their church and parents and trying to stay true to the swirling
laissez-faire. Experience is making many
sadder but wiser. The shame, anger or even
indifference stirred by early sex an lead to
prolonged abstinence. Chandra, a 17-year-old
in Detroit, says she had sex with a boyfriend
of two years for the first time at 15 despite
her mother’s constant pleas against it. She
says she wishes she had heeded her mother’s
advice ‘‘One day I just decided to do it,’’ she
says. ‘‘Afterward, I was kind of mad that I
let it happen. And I was sad because I knew
my mother wouldn’t have approved.’’
Chandra stopped dating the boy more than a
year ago and hasn’t had sex since. ‘‘It would
have to be someone I really cared about,’’
she says. ‘‘I’ve had sex before, but I’m not a
slut.’’
With little guidance from grownups, teens
have had to discover for themselves that the
ubiquitous sexual messages must be tempered with caution and responsibility. It is
quite clear, even to the most sexually experienced youngsters, just how dangerous a little
information can be. Stephanie in North Lauderdale, who lost her virginity two years
ago, watches with concern as her seven-year-


Back in 1970, a wife of a soldier missing in action made a simple request to have a flag designed for a small group of families whose loved ones were prisoners or missing in action in Southeast Asia. As a member of the National League of Families POW/MIA organization needed a symbol. This symbol, a black and white flag, with a silhouette of a bowed head set against a guard tower and a single strand of barbed wire, was designed by Newt Heisley.

Newt Heisley made the sketch of this symbol over a couple of days in a New Jersey advertising studio, never imagining the impact the design he created would have. Mr. Heisley used the inspiration of his ill son to design the flag while he was touring the Air Force Academy. After it was adopted, Heisley knew of the importance of his symbol over a couple of days in a New Jersey advertising studio, never imagining the impact the design he created would have. Mr. Heisley used the inspiration of his ill son to design the flag while he was touring the Air Force Academy. After it was adopted by many companies and organizations, it has been adopted by the National League of Families POW/MIA and the POW/MIA symbol is a national symbol that is seen everywhere through the presence of the POW/MIA flag. This flag has become a powerful symbol to all Americans that we have not forgotten—and will not forget. Through its creation, the flag has flown over numerous state and federal buildings, and has even been adopted by similar organizations in Kuwait, Chechnya, Bosnia, and other countries.

As a veteran who served in Korea, I personally know that the remembrance of another's sacrifice in battle is one of the highest and most noble acts we can offer. Newt Heisley has inspired this remembrance and honor and I thank him, personally, for this tremendous symbol that shall endure forever.
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EVANS, Mr. Taylor of Mississippi, Mr. Abercrombie, Mr. Meehan, Ms. Harman, Mr. Mchale, Mr. Kennedy of Rhode Island, Mr. Allen, Mr. Snyder, and Mr. Maloney of Connecticut.

As additional conferees from the Permanent Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 2 of rule XLVIII: Mr. Goss, Mr. Lewis of California, and Mr. Dicks.

As additional conferees from the Committee on Banking and Financial Services, for consideration of sections 1064 of the Senate amendment: Mr. Leach, Mr. Castle, and Mr. LaFalce.

As additional conferees from the Committee on Commerce, for consideration of sections 601, 3136, 3154, 3201, 3401, and 3403-3407 of the House bill, and sections 321, 601, 1062, 3133, 3140, 3142, 3144, 3201, and title XXXVIII of the Senate amendment, and modifications committed to conference: Mr. Bille, Mr. Schaefer of Colorado, Mr. Dingell, and Mr. Oxley; provided, that Mr. Oxley is appointed in lieu of Mr. Dan Schaefer of Colorado for consideration of section 321 of the Senate amendment; provided further, that Mr. Billakis is appointed in lieu of Mr. Dan Schaefer of Colorado for consideration of section 601 of the House bill, and section 601 of the Senate amendment; provided further, that Mr. Taupin is appointed in lieu of Mr. Dan Schaefer of Colorado for consideration of section 1062 and title XXXVIII of the Senate amendment.

As additional conferees from the Committee on Education and the Workforce, for consideration of sections 361, 364, 551, and 3151 of the House bill, and sections 522, 643, and 1055 of the Senate amendment, and modifications committed to conference: Mr. Petri, Mr. Riggs, and Mr. Roemer.

As additional conferees from the Committee on Government Reform and Oversight, for consideration of sections 368, 729, 1025, 1042, and 1101-1106 of the House bill, and sections 346, 623, 707, 805, 806, 813, 814, 815, 816, 1101-1105, 3142, 3144, 3145, 3161-3172 and 3510 of the Senate amendment, and modifications committed to conference: Mr. Crapo, Mr. Sensenbrenner, Mr. Calvert, and Mr. Brown of California.

As additional conferees from the Committee on Transportation and Infrastructure, for consideration of sections 552, 601, 1411, and 1433 of the House bill, and sections 323, 601, 604, and 1080 of the Senate amendment, and modifications committed to conference: Mr. Shuster, Mr. Boehlert, and Mr. Clement.

As additional conferees from the Committee on Veterans' Affairs, for consideration of sections 556 and 1046 of the House bill, and sections 618, 619, 644, and 1082 of the Senate amendment, and modifications committed to conference: Mr. Smith of New Jersey, Mr. Bilirakis, and Mr. Rodriguez.

As additional conferees from the Committee on Ways and Means, for consideration of the XXXVII and XXXVIII of the Senate amendment, and modifications committed to conference: Mr. Crane, Mr. Thomas of California, and Mr. Matsui.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-6126. A communication from the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, the report of a rule entitled "National Transportation Policy (RIN3120±AB41)" received on July 20, 1998; to the Committee on Environmental Protection and Public Works.

EC-6127. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Caspasin; Exemption from the Requirement of a Tolerance (FRL5792±7) received on July 16, 1998; to the Committee on Environmental Protection and Public Works.

EC-6128. A communication from the Director of the Office of Management and Budget, Department of State, transmitting, pursuant to law, certification of a proposed Manufactur-
EC-6141. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Airbus Model A320 and A321 Series Airplanes” (Docket 97-94-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6150. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; British Aerospace Model BAE 146 and Model Avro 146-R Series Airplanes” (Docket 98-94-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6151. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Airbus Model A320-111 and -211 Series Airplanes” (Docket 97-94-160-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6152. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; British Aerospace Model BAE 146 and Model Avro 146-R Series Airplanes” (Docket 98-94-160-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6153. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Dassault Mystere-Falcon 50 Series Airplanes (Docket 97-94-160-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6154. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Aerospatiale Model ATR 42 and ATR 72 Series Airplanes” (Docket 98-94-149-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6155. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Revision of Class D and Establishment of Class E Airspace; Yuma MCAS-Yuma International Airport, AZ; Correction” (Docket 97-94-1-AW-14) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6156. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; Saab S340B Series Airplanes” (Docket 98-94-117-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6157. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Establishment of Class E Airspace; Ukiah, CA” (Docket 98-94-AW-11) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6158. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Modification of Class E Airspace: Porterville, CA” (Docket 98-94-AW-11) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6159. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments” (Docket 98-94-AW-11) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6160. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Standard Instrument Approach Procedures; Miscellaneous Amendments” (Docket 98-94-AW-11) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6161. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes” (Docket 98-94-160-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6162. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives; McDonnell Douglas Model MD-11 Series Airplanes” (Docket 98-94-160-AD) received on July 20, 1998, to the Committee on Commerce, Science, and Transportation.

EC-6163. A communication from the Director of the United States Arms Control and Disarmament Agency, transmitting, an Executive Summary and Annexes to the U.S. Arms Control and Disarmament Agency’s 1997 Annual Report; to the Committee on Foreign Relations.

EC-6164. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled “Fishing for Sablefish Fishery; Management Measures for Nontrawl Sablefish” (RIN 0648-AJ27) received on July 22, 1998, to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs: Special Report entitled “Slamming”—The Authorized Switching of Long-Distance Telephone Service” (Rept. No. 105-299).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1692: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel Billie-B-II (Rept. No. 105-260).

S. 1731: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel Falls Point (Rept. No. 105-261).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 1732: A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel Vesterhaven (Rept. No. 105-262).

EXECUTIVE REPORTS OF COMMITTEES

The following executive report of committee was submitted on July 22, 1998:
By Mr. CHAFFEE, from the Committee on Environment and Public Works:
Nikki Russ Tinsley, of Maryland, to be Inspector General, Environmental Protection Agency.
(The above nomination was reported with the recommendation that she be confirmed; subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following executive reports of committees were submitted on July 23, 1998:

By Mr. HELMS, from the Committee on Foreign Relations:
Richard Nelson Swett, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Arthur Louis Schechter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Commonwealth of The Bahamas.

FEDERAL CAMPAIGN CONTRIBUTION REPORT

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee Richard Nelson Swett.

Post: Ambassador to Denmark

Contributions, amount, date, and donee:

Self: Dick Swett, $100.00, 5/2/94, Verge for Congress.

Spouse: Katrina Swett, $200.00, 1/11/91, Keefe for Congress; $50.00, 7/27/93, N.H. Democratic Party.

Children: Chelsea Swett, $150.00, 6/27/90, Swett for Congress; $2,000.00, 3/31/92, Swett for Congressional Campaign; $2.00, 3/31/92, Swett for Congress. Keaton Swett, None. Chanteclaire Swett, None. Kismet Swett, None. Atticus Swett, None. Sunday Swett, None.

Parents: Ann Swett, $200.00, 6/29/90, Swett for Congress; $100.00, 2/07/97, NH Democratic Party; $25.00, 5/09/96, DCCC; $20.00, 5/14/96, National Democratic Congressional Campaign Committee; $1,000.00, 11/19/97, N.H. Democratic Party.

Sister: Swett for Congress; $25.00, 7/17/96, DCCC; $50.00, 9/07/96, Keefe for Congress; $1,000.00, 9/17/96, Swett for Senate; $20.00, 1/10/96, Dem. National Committee; $100.00, 9/29/96, Swett for Congress; $200.00, 10/13/92, Swett for Congress; $100.00, 11/10/93, Swett for Congress; $200.00, 3/18/94, Swett for Congress.

Grandparents: Henry Parkhurst, None. Elizabeth Parkhurst, None. Floyd Swett, None. Willemena Swett, None.

Brothers and spouses: Jay Swett, None. Philip Swett Jr., None. Theresa Swett, $200.00, 11/10/96, Swett for Senate.

Sisters and spouses: Gail Swett Yeo, $100.00, 3/13/92, Swett for Congress; $10.00, 10/15/96, Swett for Senate. Jonathan Yeo, $100.00, 11/10/96, Swett for Senate. Barbara Swett Burt, $300.00, 10/11/96, Swett for Senate, $30.00, 11/13/94, Friends of Tom Andrews, $3.00, 4/08/96, Maine Democratic Party. Richard Burt, None.

Dick Swett for Congress Committee Contributions as follows: $15.00, 3/22/90, Grafton Democrats; $175.00, 10/12/90, Cheshire County Democrats; $1,000.00, 5/01/91, New Hampshire Democratic Party; $2,500.00, 9/06/91, New Hampshire Democratic Party; $300.00, 9/12/91, Salem Democrats; $100.00, 9/12/91, Merrimack County Democrats; $150.00, 1/1992, Belknap County Democrats; $1,000.00, 2/14/92, New Hampshire Democratic Party; $200.00, 2/25/92, Coos County Democratic Committee; $250.00, 6/19/92, New Hampshire Democratic Party; $50.00, 8/17/92, New Hampshire Democratic Party; $50.00, 9/19/92, New Hampshire Democratic Party; $200.00, 9/05/92, Salem Democrats; $150.00, 9/24/92, New Hampshire Democratic Party; $10,000.00, 10/29/92, New Hampshire Democratic Party*; $150.00, 10/26/92, New Hampshire Democratic Party*; $1,000.00, 10/29/92, Preston for Congress; $25,000.00, Democratic Congressional Campaign Committee; $1,500.00, 3/19/93, New Hampshire Democratic Party; $1,800.00, 7/2/93, New Hampshire Democratic Party*; $200.00, 8/27/93, New Hampshire Democratic Party*; $2,500.00, 10/14/93, New Hampshire Democratic Party; $2,000.00, 10/22/93, Berlin Democratic Committee; $2,000.00, 1/13/94, New Hampshire Democratic Party; $2,500.00, 2/4/94, Democratic Cong. Campaign Comm.; $500.00, 3/14/94, Nashua Presidential Host Account; $150.00, 3/17/94, Merrimack County Democrats; $5,000.00, 5/4/94, New Hampshire Democratic Party*; $2,000.00, 8/19/94, Democratic Cong. Campaign Comm.; $6,000.00, 8/19/94, New Hampshire Democratic Party*; $7,700.00, 8/31/94, New Hampshire Democratic Party*; $100.00, 9/14/94, Hillsborough County Democratic Committee; $4,000.00, 11/4/94, New Hampshire Democratic Party*; $4,000.00, 12/19/94, New Hampshire Democratic Party*.

Sweat for Senate Committee Contributions as follows: $1,000.00, 3/16/95, New Hampshire Democratic Party*; $100.00, 8/31/95, Belknap County Democrats; $40.00, 8/16/95, Lakes Region Democratic Committee; $125.00, 9/2/95, Democratic Committee; $100.00, 1/7/96, Cheshire County Democrats; $750.00, 1/24/96, New Hampshire Democratic Party; $400.00, 3/2/96, Merrimack County Democrats; $50.00, 3/29/96, Carroll County Democrats; $250.00, 4/16/96, Cheshire County Democrats; $75.00, 5/14/96, New Hampshire Democratic Party; $30.00, 8/16/96, Concord City Democrats; $100.00, 9/16/96, Stafford County Democratic Committee; $18,000.00, 11/26/96, New Hampshire Democratic Party*; $15,000.00, 3/06/97, New Hampshire Democratic Party*; $500.00, 6/3/97, Archi Pac; $1,000.00, 12/98, J. Jane Frederick for Congress.

*These contributions were Transfers of surplus funds 2USC Sect 439. The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee Arthur Louis Schechter.

Post: Ambassador to the Bahamas.

Contributions, amount, date, and donee:

1. Self: See Attached.
2. Spouse: Joyce Proler Schechter, See Attached.
4. Parents: Catherine Karpas and Morgan McKee Schechter, deceased.
5. Grandparents names: Miriam and Solomon Schechter, deceased.
6. Brothers and spouses names: Adolph Joe Schechter and wife Joyce, See Attached; Dr. Robert Samuel Schechter and wife Mary Ethel, None.
7. Sisters and spouses names: None.

National political contributions—Continued

Sheila Jackson Lee .......... 1,000
Kerrey for U.S. Senate .......... 250
Martin Frost Campaign .......... 250
Wilson Committee (primary) .......... 250
Sam Gejdenson Re-election .......... 500
Jeff Bingaman Campaign .......... 500

7/19-97:

1/93-1293:

Robb for Senate .............. 1,000
DSCC ................ 10,000
Bob Krueger (run-off) .......... 1,000

1/94-1294:

Lloyd Doggett ................. 1,000
Lloyd Doggett ................ 1,000
Sheila Jackson Lee (primary) .......... 1,000
Paul Colbert (primary) .......... 1,000

7/19-98:

Ken Bentsen .................. 1,000
Ken Bentsen .................. 1,000

July 23, 1998
Political Contributions—Continued

July 23, 1998

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National political contributions—Continued

1/96-12/96:
Effective Government ........................................ 1,000
DNC ........................................................................ 5,000
Tom Daschle ......................................................... 1,000
Emily Lussack ....................................................... 1,000
John Bryant .......................................................... 1,000
Friends of Carl Levin ............................................ 250
Fritz Hollings for Senate ........................................ 1,000
1/98-Present:
Bob Kerrey for Senate ........................................... 1,000
John Kerrey Campaign ......................................... 1,000
Senator Chris Dodd Campaign .............................. 500

[Leslie Rose Schechter Karpas]

1/93-12/93:
Bob Krueger .......................................................... 1,000
1/94-12/94:
Paul Colbert (primary) ......................................... 1,000
Jim Mattox (primary) .............................................. 1,000
Carrin Patman ....................................................... 1,000
Shelja Jackson Lee (general) ................................. 500
Ken Bentsen (general) ............................................ 500
1/95-12/95:
Clinton/Gore '96 ..................................................... 1,000
Gene Green ........................................................... 1,000
Jim Chapman ......................................................... 2,000
Ken Bentsen .......................................................... 1,000
Nick Lampson for Congress ................................. 500
1/97-12/97:
-0-
1/98-Present:
Dick Gephardt Campaign ..................................... 1,000

[Hayley Karpas]

1/95-12/95:
Clinton/Gore '96 Primary ....................................... 1,000
1/96-Present: ........................................................ -0-

[Jennifer Paige Schechter Rosen]

1/94-12/94:
Jim Chapman ........................................................ 1,000
Ken Bentsen .......................................................... 1,000
Martin Frost ......................................................... 1,000
Fisher for Senate .................................................. 1,000
Paul Colbert .......................................................... 1,000
Jim Mattox ........................................................... 1,000
Shelja Jackson Lee ................................................ 500
Gene Green ........................................................... 1,000
1/95-12/95:
Shelja Jackson Lee (primary) .................................. 1,000
Lefty Morris .......................................................... 1,000
Clinton/Gore '96 Primary .................................... 1,000
1/96-12/96:
Shelja Jackson Lee ................................................ 1,000
Victor Morales ....................................................... 1,000
Martin Frost .......................................................... 1,000
Gene Green ........................................................... 1,000
John Bryant .......................................................... 1,000
Nick Lampson ....................................................... 1,000
Friends of Tom Strickland .................................... 500
John Wertheim for Congress .............................. 250
1/97-Present: ........................................................ -0-

[Alan M. Rosen]

1/95-12/95:
Clinton/Gore '96 Primary .................................... 1,000
1/96-12/96:
Nick Lampson for Congress ................................. 100
DNC ................................................................. 300
1/97-Present: ........................................................ -0-

[Adolph Joseph Schechter & Mary Ethel Schechter]

1/96-12/96:
Lefty Morris for Congress ................................... 100
1/97-Present: ........................................................ -0-

[Dr. Robert Schechter & Mary Ethel Schechter]

None

PART B—FINANCIAL INFORMATION AMENDED

Answer: In order to update this answer from the previous files of June 5, 1997, and to correct any inadvertent oversights, I am filing the attached amendment.

Members of my immediate family are as follows: my wife, Joyce Proler Schechter; daughters: Leslie Rose Schechter Karpas and husband, Hedley Karpas, and Jennifer Paige Schechter Rosen and husband, Alon S.; and my brothers—Adolph Joseph Schechter and wife, Joyce, and Dr. Robert S. Schechter and wife, Mary Ethel.

Both my parents and grandparents are deceased.

Political contributions within the last five years are attached.

Political Contributions

Arthur L. Schechter

692-12/92:

National:

DNC ................................................................. $10,000
DNC (transferred to non-fed) .................. 10,000
Feinstein for Senate ................................. 1,000
Texas Unity 92 ............................................... 5,000
State:

Garry Mauro ............................................... 1,000
Sue Schechter ............................................... 3,000
Ronne Harrison ........................................... 1,000
Ann Richards .............................................. 1,000
Local:

Gaynelle j ones (j udge) ......................... 1,000
Scott Link (j udge) ........................................ 1,000
J udg e Rose schechter Rosen and husband, Alon S. 1,000
J udge j ohn Ackerman ................................ 1,000
Katie Kennedy for j udge .......... 1,000

1/93-12/93:

National:

Robb for Senate ............................................... 1,000
DSCC .............................................................. 11,000
Bob Krueger ..................................................... 2,000
Jim Mattox ....................................................... 1,000
Gene Green ....................................................... 1,000
Sheelja Jackson Lee ........................................ 1,000
State:

Texas Democratic Party ............................. 5,000
Bob Bullock ..................................................... 1,000
Garry Mauro .................................................... 5,000
Craig Eiland ..................................................... 1,000
Ann Richards ............................................... 25,000
Lloyd Doggett ................................................. 5,000
Local:

Harris County Democratic ...................... 1,000
David Minberg ............................................... 2,000
Rene Hass ....................................................... 5,000
Ed Cogburn ..................................................... 1,000
Sue Sussman .................................................... 1,000
J udge West ....................................................... 1,000
Peavy ............................................................... 1,150
Eric Andel ....................................................... 1,000
Leta Parks ....................................................... 1,000
Mickey Farrow ................................................. 1,000
Bob Lanier ....................................................... 5,000

1/94-12/94:

National:

DNC—(transferred to non-fed) ............... 10,000
Ken Bentsen .................................................... 1,000
Lloyd Doggett ............................................... 1,000
Lloyd Doggett ............................................... 1,000
Sheelja Jackson Lee ......................................... 1,000
Paul Colbert (primary) ............................ 1,000
DSCC .............................................................. 6,000
DSCC (transferred to non-fed) ........... 5,000
Kennedy for Senate .................................... 1,000
DNC (non-fed) ............................................... 25,000
Hyatt for Senate ........................................... 1,000
State:

Bob Bullock ..................................................... 3,500
Garry Mauro .................................................... 1,000
Marti n Fro st .................................................... 3,000
Bob Lanier ....................................................... 5,000
Larry Edro zo .................................................... 1,000

1/97 to present: ......................................................... -0-

692-12/92:

National:

Carol Moseley Braun ................................. 1,000
Dianne Feinstein ............................................. 1,000

1/98-12/98:

National:

DNC .............................................................. 25,000
Tom Daschle (general) ............................ 1,000
DNC .............................................................. 10,000
DNC (transferred to non-fed) ............... 10,000
DNC (non-fed) ............................................... 5,000
Ken Bentsen (primary) ............................ 1,000
Ken Bentsen (general) ............................. 1,000
J ohn Odum ...................................................... 1,000
DCCC ............................................................ 5,000
People for Wilhelm ................................. 1,000
State:

Garry Mauro .................................................... 1,000
21st Century Democrats ....................... 20,000
John Whitmire ............................................ 2,000
Local:

David Ballard .............................................. 1,000
J udson Robinson ............................................ 1,000
Harris County Dem. P ty ......................... 5,000
Norma V enso ................................................. 1,000
David Garner ................................................. 1,000

1/96-12/96:

National:

Martin Fro st ..................................................... 1,000
DNC .............................................................. 20,000
Tom Daschle (general) ............................ 1,000
Nick Lampson (general) ......................... 1,000
DNC (non-fed) ............................................... 30,000
Effective Government ....................... 1,000
DSCC ............................................................ 6,000
Lefty Morris .................................................... 1,000
DSCC ............................................................ 1,000
J ohn Bryant ..................................................... 1,000
* Ken Bentsen ................................................ 1,000
* Jim Chapman .............................................. 1,000

State:

21st Century Democrats ....................... 33,000
Garry Mauro .................................................... 3,000
Bob Bullock ..................................................... 1,500
Texas Senate Dem. Comm. .................... 2,000
Local:

David Garner .............................................. 2,000
Larry Edro zo .................................................... 2,000

7/97 to present: ......................................................... -0-

Political Contributions—Continued

Lupe Salinas for j udge ....................... 1,000
Jack Lee for j udge ................................. 1,000
Rene Haas for j udge ............................. 1,000
Michael O'Connor for j udge ............ 2,500
Frank Carmona for j udge ................ 1,000
Alice Oliver-Parrott for j udge ............. 2,500
Helen Cassidy for j udge ...................... 2,000
Ed Cogburn for j udge .......................... 1,000
J immy Carroll for j udge ...................... 2,000
John Kirtley for j udge ......................... 1,500

*Lloyd Doggett ................................................. 2,000
CONGRESSIONAL RECORD — SENATE

July 23, 1998

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:
2. Spouse, none, Democratic National Committee.
3. Children and spouses names, NA.
5. Grandparents names, all deceased.
6. Brothers and spouses names, Stephen and Mary Davenport, none.
7. Sisters and spouses names, none.

David Michael Satterfield, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Lebanon.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: David M. Satterfield.
Post: Ambassador to Lebanon.
Contributions, Amount, Date, and Donee:
1. Self, none.
2. Spouse, none.
4. Parents names, Betty G. Kemp, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, Nancy Goldstein, none, Barry Goldstein, none.

Melissa Foelsch Wells, of Connecticut, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominee: Melissa Wells.
Post: Estonia.
Contributions, Amount, Date, and Donee:
1. Self, none.
2. Spouse, Alfred W. Wells, none.
3. Children and spouses names, Gregory C. Wells, Christopher S. (wife Fatima Wells), none.
4. Parents names, Miliza Korjus and Kuno Foelsch, all deceased.
5. Grandparents names, all deceased.
7. Sisters and spouses names, none.

Richard E. Hecklinger, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform...
me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominees:
- Richard E. Hecklinger
- Post: Bangkok

Contributions, Amount, Date, and Donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents, none, deceased.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

Theodore H. Kattouf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominees:
- Theodore H. Kattouf
- Post: United Arab Emirates

Contributions, Amount, Date, and Donee:
2. Spouse, Jannie M. Kattouf, none.
5. Grandparents, all deceased.
7. Sisters and spouses names, Sylvia Hanna, none, Nicholas Hanna, none.
8. Bert T Edwards, of Maryland, to be Chief Financial Officer, Department of State.
9. David G. Carpenter, of Virginia, to be an Assistant Secretary of State.
10. David G. Carpenter, of Virginia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service.
11. Charles F. Kartman, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for the Korean Peace Talks.
12. William B. Milam, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Nominees:
- William B. Milam
- Post Ambassador to Pakistan

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominees:
- William B. Milam
- Alice V. Milam (nee Pierce), deceased 1951
- Martha Ellen, Ellen (Cowls) Milam, deceased 1963
- Grace (Eads) Milam, deceased 1946

6. Brothers and spouses names, Robert D. Milam, none; Joyce N. Milam, none; Carlin R. Milam, none; and Howard P. Milam, none; Doris N. Milam, none.
7. Sisters and spouses names, no sisters.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Nominees:
- Robert D. Milam
- Alice V. Milam (nee Pierce)
- Martha Ellen, Ellen (Cowls) Milam
- Grace (Eads) Milam
- David G. Carpenter, of Virginia, to be Director of the Office of Foreign Missions, and to have the rank of Ambassador during his tenure of service.

CONGRESSIONAL RECORD — SENATE S8919

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DORGAN:
- S. 2345. A bill to amend section 2681 of title 18, United States Code, relating to the special forfeiture of collateral profits of a crime; to the Committee on the Judiciary.

FEDERAL SON OF SAM LEGISLATION

Mr. DORGAN. Mr. President, today, I am introducing a bill to correct problems with the Federal “Son of Sam” law, which has long been a source of concern by the United States Supreme Court. The New York statute analyzed by the Supreme Court, as well as the Federal statute which I seek to amend, forfeited the proceeds from any expressive work of a criminal, and dedicated those proceeds to the victims of the perpetrator’s crime. Because of constitutional deficiencies cited by the Court, the Federal statute has never been applied, and without changes, it is highly unlikely that it ever will be. Without this bill, criminals can become wealthy from the fruits of their crimes, while victims and their families are exploited.

The bill I now introduce attempts to correct constitutional deficiencies cited by the Supreme Court in striking down New York’s Son of Sam law. In its decision striking down New York’s law, the Court found the statute to be both over inclusive and under inclusive: Over inclusive because the statute included all expressive works, no matter how tangentially related to the crime; under inclusive because the statute only included expressive works, not other forms of property.
To correct the deficiencies perceived by the Court, this bill changes significantly the concepts of the Federal statute. Because the Court criticized the statute for singling out speech, this bill is all encompassing; it includes various types of property related to the crimes of which a criminal might profit. Because the Court criticized the statute for being overinclusive, including the proceeds from all works, no matter how remotely connected to the crime, this bill limits the property to be forfeited, whether or not enhanced value of property attributable to the offense. Because the Court found fault with the statute for not requiring a conviction, this bill requires a conviction.

The bill also attempts to take advantage of the long legal history of forfeitures. Pirate ships and their contents were once forfeited to the government. More recent case law addresses the concept of forfeiting any property used in the commission of drug related crimes, or proceeds from those crimes. Hoped is interpreting this statute will look to this legal history and find it binding or persuasive.

The bill utilizes the Commerce Clause authority of Congress to forfeit property associated with State crimes. This means that if funds are transferred through banking channels, if UPS or FedEx are used, if the airwaves are utilized, or if the telephone is used to transfer the property, to transfer funds, or to make a profit, the property can be forfeited. In State cases, this bill allows courts the State attorney general to proceed first. We do not seek to preempt State law, only to see that there is a law in place which will ensure that criminals do not profit at the expense of their victims and the families of victims.

One last improvement which this bill makes over the former statutes: The old statute included only crimes which resulted in physical harm to another; this bill includes other crimes. Examples of crimes probably not included under the old statute, but included here are, forgery, kidnapping, bank robbery, and embezzlement.

Mr. President, our Federal statute, enacted to ensure that criminals do not profit at the expense of their victims and victim’s families, is not used today because it is perceived to be unconstitutional. I believe victims of crime deserve quick action on this bill, drafted to ensure that they are not the source of profits to those who committed crimes against them. I ask for your support.

By Mr. ALLARD (for himself, Mr. D’AMATO, Mr. FAIRCLOTH, Mr. HAGEL, Mr. ENZI, Mr. BENNETT, Mr. MACK, Mr. SHELBY, and Mr. GRAMS)

S. 2346. A bill to amend the Internal Revenue Code of 1986 to expand S corporation eligibility for banks, and for other purposes; to the Committee on Finance.

THE SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998

Mr. ALLARD. Mr. President, today I am pleased to introduce legislation that will expand and improve Subchapter S of the Internal Revenue Code. I am joined in this effort by Senators D’AMATO, FAIRCLOTH, HAGEL, ENZI, BENNETT, MACK, SHELBY, and GRAMS.

The Subchapter S provisions of the Internal Revenue Code reflect the desire of Congress to alleviate the double tax burden on small business corporations. Pursuant to that desire, Subchapter S has been liberalized a number of times, most recently in 1996. This legislation contains several provisions that will make the Subchapter S election more widely available to small businesses in all sectors. It also contains several provisions of particular benefit to community banks that may be contemplating a conversion to Subchapter S. Financial institutions were first made eligible for the Subchapter S election in 1996. This legislation builds on and clarifies the Subchapter S provisions applicable to financial institutions.

Mr. President, as Congress considers credit union legislation and financial modernization legislation, it is important that we explore ways in which we can ensure that the tax and regulatory burden on our community banks remains reasonable. This legislation is reflective of that.

Mr. President, I ask unanimous consent that the text of the bill and the attached explanation of the provisions of the bill be printed in the Record. There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business and Financial Institutions Tax Relief Act of 1998”.

SEC. 2. EXPANSION OF S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Section 1361(c)(1)(C) of the Internal Revenue Code of 1986 (relating to passive investment income defined) is amended by inserting after clause (v) the following:

“(v) Exception for bank investment securities income.—In the case of a bank (as defined in section 581), the term ‘passive investment income’ shall not include interest on investment securities held by a bank.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 150.

(a) IN GENERAL.—Section 1361(b)(1)(A) of the Internal Revenue Code of 1986 (defining small business corporation) is amended by striking “75” and inserting “150”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 5. TREATMENT OF DIRECTOR QUALIFYING STOCK.

(a) IN GENERAL.—Section 1361(c)(1) of the Internal Revenue Code of 1986 (relating to special rules for applying subsection (b)) is amended by adding at the end the following:

“(7) DIRECTOR QUALIFYING STOCK.—(A) IN GENERAL.—For purposes of subsection (b)(1)(D), director qualifying stock shall not be treated as a second class of stock.

(B) DIRECTOR QUALIFYING STOCK DEFINED.—For purposes of this paragraph, the term ‘director qualifying stock’ means any stock held by any director of a bank (as defined in section 581) and credited by banking regulatory requirements.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 6. BAD DEBT CHARTE OFFS IN YEARS AFTER ELECTION YEAR TREATED AS ITEMS OF INCOME.

The Secretary of the Treasury shall modify Regulation 1.1374-4(f) for taxable years beginning after December 31, 1998, with respect to bad debt deductions under section 166 of the Internal Revenue Code of 1986 by allowing such deductions to be properly taken into account throughout the recognition period (as defined in section 1274(d)(7) of such Code).

SEC. 7. INCLUSION OF BANKS IN 3-YEAR S CORPORATION RULE FOR CORPORATE PREFERENCE ITEMS.

(a) IN GENERAL.—Section 1363(b) of the Internal Revenue Code of 1986 (relating to computation of corporation’s taxable income) is amended by adding at the end the following new flush sentence:

“Paragraph (4) shall apply to any bank whether such bank is an S corporation or a qualified subchapter S corporation.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SMALL BUSINESS AND FINANCIAL INSTITUTIONS TAX RELIEF ACT OF 1998—LEGISLATION TO EXPAND AND IMPROVE SUBCHAPTER S

Subchapter S of the Internal Revenue Code was enacted in 1958 to reduce the tax burden on small business corporations. The Subchapter S provisions have been liberalized a number of times over the last two decades, most significantly in 1982, and again in 1996. This liberalization reflects a desire on the part of Congress to relieve the tax burden on small business. S corporations do not pay corporate level income taxes, earnings are passed through to the shareholder level where income taxes are paid, thus eliminating the double taxation of corporations. By contrast, Subchapter C corporations pay corporate level income taxes on earnings, and shareholders pay income taxes again on those same earnings when they are passed through as dividends.

This proposed S corporation improvement legislation would be helpful to many small
cases, and confiscation of labs continued in 1996. It is obvious that the Comprehensive Methamphetamine Control Act which has done some good. Mr. HARKIN. Mr. President, methamphetamine is fast becoming the leading illegal addictive drug in this nation. From quiet suburbs, to city streets, to small towns of lower incomes, is destroying thousands of lives every year. A majority of those lives, unfortunately, are our children’s.

Methamphetamine is now commonly referred to as Iowa’s illegal drug of choice. This drug is reaching epidemic proportions as it sweeps from the west coast, ravages through the Midwest, and is now beginning to reach the east. The trail of destruction of human life and is now beginning to reach the east. The number of meth arrests, court cases, and confiscation of labs continues to escalate. In the Midwest alone, the number of clandestine meth labs confiscated and destroyed for 1998 is on pace to triple the number confiscated and destroyed in 1997. The cost of clean-up for each lab ranges from $5,000 to $90,000 or more and is paid for by communities who are not prepared, or experienced with the dangers of drug trafficking.

Additionally, these clandestine meth labs create an enormous amount of hazardous waste. For every 1 pound of methamphetamine produced, there are 5 to 6 pounds of hazardous waste as a by-product. This waste is highly toxic and often seeps into the ground where eventually it ends up in our drinking water supply. The dangers posed to law enforcement officers also are greatly increased by these labs. Many peddlers of meth are now what they call “kitchen” labs. Meth pushers are now simply using mobile homes or even pick-up trucks to produce their drugs. Combining many volatile, toxic, and uncontrolled environment, meth labs are time bombs to police officers and communities everywhere.

Mr. President, today I am introducing the Comprehensive Methamphetamine Control Act of 1998. My legislation takes a comprehensive, common-sense approach in battling this growing epidemic. It calls for an increase in resources to law enforcement working through the High Intensity Drug Trafficking Area (HIDTA) program and establishes swift and certain penalties for those producing and peddling meth. Also, my legislation expands school and community-based prevention efforts at the local level—targeting those areas that need it the most. Finally, this proposal calls on the National Institute on Drug Abuse and Addiction to find exactly what makes methamphetamine so very addictive—especially to our young people—and the best methods for beating the addiction.

Mr. President, I believe that we have a window of opportunity as a nation to make a stand right now to defeat this scourge. Everyday, meth infiltrates our city streets and suburbs, leading more and more people down a path of personal destruction. Families are being devastated and communities are fighting an uphill battle against this powerful drug. The time is now to make a stand to protect our communities and schools by passing this legislation.

I ask unanimous consent that the bill be ordered to be printed in the Record, as follows:

S. 2347

SEC. 2. EXPANDING METHAMPHETAMINE ABUSE PREVENTION EFFORTS.

Section 515 of the Public Health Service Act (42 U.S.C. 290b-21) is amended by adding at the end the following:

“(e) PREVENTION OF METHAMPHETAMINE ABUSE AND ADDICTION.—The Director of the Center for Substance Abuse Prevention (referred to in this section as the ‘Director’) may make grants to and enter into contracts and cooperative agreements with public and private entities to enable such entities—

(A) to carry out school-based programs concerned with the dangers of methamphetamine abuse and addiction, using methods that are effective and evidence-based; and

(B) to carry out community-based methamphetamine abuse prevention programs that are effective and evidence-based.

“(2) USE OF FUNDS.—Amounts made available under paragraph (1) shall be used for planning, establishing, or administering methamphetamine prevention programs in accordance with paragraph (3).

“(3) PREVENTION PROGRAMS AND ACTIVITIES.—

(A) IN GENERAL.—Amounts provided under this subsection may be used—

(i) to carry out school-based programs that are focused on those districts with high or increasing rates of methamphetamine abuse and addiction and targeted at populations which are most at risk to start methamphetamine abuse;

(ii) to carry out community-based prevention programs that are focused on those populations within the community that are most at-risk for methamphetamine abuse and addiction;

(iii) to assist local government entities to conduct appropriate methamphetamine prevention activities;

(iv) to train and educate State and local law enforcement officials on the signs of methamphetamine abuse and addiction and the options for treatment and prevention;

(v) for planning, administration, and educational activities related to the prevention of methamphetamine abuse and addiction;

(vi) for the monitoring and evaluation of methamphetamine prevention programs and activities, and reporting and disseminating resulting information to the public; and

(vii) for targeted pilot programs with evaluation component to enhance innovation and experimentation with new methodologies.

(B) PRIORITY.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in methamphetamine abuse and addiction.

“(4) ANALYSES AND EVALUATION.—

(A) IN GENERAL.—Not less than $500,000 of the amount available in each fiscal year to carry out this subsection shall be made available to the Director for consultation with other Federal agencies, to support and conduct periodic analyses and evaluations of effective prevention programs for methamphetamine abuse and addiction and the development of appropriate strategies for disseminating information about and implementing these programs.

(B) ANNUAL REPORT.—The Director shall submit to the Committee on Labor and Human Resources and Committee on Appropriations of the Senate and the Committee on Commerce and Committee on Appropriations of the House of Representatives, an annual report with the results of the analyses and evaluation under subparagraph (A).
year 1999, and such sums as may be necessary for each succeeding fiscal year.’.’

SEC. 3. EXPANDING CRIMINAL PENALTIES AND LAW ENFORCEMENT FUNDING.

(a) Swift and Certain Punishment of Methamphetamine Laboratory Operators.—

(I) FEDERAL SENTENCING GUIDELINES.—

(A) REQUIRING SENTENCING COMMISSION TO AMEND GUIDELINES FOR LABORATORY OPERATORS.—The United States Sentencing Commission shall promulgate in accordance with its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission Guidelines for Federal Criminal Cases to amend existing Federal sentencing guidelines for any offense relating to the manufacture, attempt to manufacture, or conspiracy to manufacture amphetamine or methamphetamine in violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.) in accordance with this paragraph.

(B) REQUIREMENTS.—In carrying out this paragraph, the United States Sentencing Commission shall, with respect to each offense described in subparagraph (A)—

(i) increase the base offense level for the offense by not less than 3 offense levels above the applicable level in effect on the date of enactment of this Act; or

(ii) increase the base offense level after an increase under subclause (I) by not less than 6 offense levels above the applicable level in effect on the date of enactment of this Act; or

(iii) if the offense created a substantial risk of danger to the health and safety of another person (including any Federal, State, or local law enforcement officer lawfully present at the location of the offense), increase the base offense level by not less than 10 offense levels.

(C) EMERGENCY AUTHORITY TO SENTENCING COMMISSION.—The United States Sentencing Commission shall promulgate the guidelines or amendments provided for under this paragraph as soon as practicable after the date of enactment of this Act in accordance with the procedure set forth in section 21(a) of the Sentencing Act of 1987 (Public Law 100-182), as though the authority under that Act had not expired.

(2) EFFECTIVE DATE.—The amendments made pursuant to this subsection shall apply with respect to any offense occurring on or after the 90th day after the date of enactment of this Act.

(b) INCREASED RESOURCES FOR LAW ENFORCEMENT.—There are authorized to be appropriated to the Office of National Drug Control Policy to combat the trafficking of methamphetamine in areas designated by the Director of National Drug Control Policy as high-trafficking areas—

(I) $25,000,000 for fiscal year 1999; and

(II) such sums as may be necessary for each of fiscal years 2000 through 2004.

SEC. 4. TREATMENT OF METHAMPHETAMINE ABUSE.

Section 507 of the Public Health Service Act (42 U.S.C. 290b) is amended by adding at the end the following:

“(d) TREATMENT OF METHAMPHETAMINE ABUSE AND ADDICTION.—

(1) GRANTS.—The Director of the Center for Substance Abuse Treatment (referred to in this section as the ‘Director’) may make grants to and enter into contracts and cooperative agreements with public and non-profit institutions for the purpose of expanding activities for the treatment of methamphetamine abuse and addiction.

(2) USE OF FUNDS.—Amounts made available under a grant, contract or cooperative agreement under paragraph (1) shall be used to provide treatment services.

(3) TREATMENT PROGRAMS AND ACTIVITIES.—

(A) IN GENERAL.—Amounts provided under this subsection may be used for—

(i) evidence-based programs designed to assist individuals to quit their use of methamphetamine and remain drug-free;

(ii) training in recognizing methamphetamine abuse and addiction for health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

(iii) training in methamphetamine treatment methods for health plans, health professionals, including physicians, nurses, dentists, health educators, public health professionals, and other health care providers;

(iv) planning, administration, and educational activities related to the treatment of methamphetamine abuse and addiction;

(v) the monitoring and evaluation of methamphetamine treatment activities, and reporting results of such evaluation to health professionals and the public;

(vi) targeted pilot programs with evaluation components to encourage innovation and experimentation with new methodologies; and

(vii) coordination with the Center for Mental Health Services on the connection between methamphetamine abuse and addiction and mental illness.

(B) PRIORITY.—The Director shall give priority in making grants under this subsection to rural and urban areas that are experiencing a high rate or rapid increases in the use of methamphetamine abuse and addiction.

(4) ANNUAL REPORT.—The Director shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Appropriations of the House of Representatives, an annual report with the results of the analyses and evaluation conducted under subparagraph (A).

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out paragraph (1), $16,000,000 for fiscal year 1999, and such sums as may be necessary for each succeeding fiscal year.”.

COMPREHENSIVE METHAMPHETAMINE CONTROL ACT OF 1998—HIGHLIGHTS

Increased Resources for Law Enforcement. Two years ago, Senator HARKIN and other members of the Iowa Congressional delegation worked to provide Iowa law enforcement with the resources needed to combat the rise in methamphetamine abuse. Iowa (along with Missouri, Kansas, and Nebraska) was designated as a High Intensity Drug Trafficking Area (HIDTA). As Iowa law enforcement has received funding to increase the number of federal prosecutors and state and local police available to crack down on meth. This legislation would expand HIDTA funding to combat methamphetamine abuse from $8 million to $25 million, allowing law enforcement officials to significantly expand their efforts and make our communities safer. Swift and Certain Punishment of Meth Lab Operators. Federal, state and local law enforcement officials have been working hard to prosecute those found to be making methamphetamine. However, because of the great number of cases in Iowa and other states and the inflexibility of current laws, there are often long delays in prosecution. Therefore, this legislation includes a recommendation by the Midwest HIDTA to provide for swifter and more certain punishment of these offenders. It would direct the U.S. Sentencing Commission to increase the penalties for those convicted of manufacturing, attempting to manufacture, or conspiracy to manufacture methamphetamine. It would also increase jail time for meth lab cases where the offense created a substantial danger to the health and safety to others, including law enforcement personnel. Stepping Up Community-Based Prevention Efforts. Critical to any successful comprehensive effort to combat methamphetamine is a strong school and community-based prevention program. This legislation authorizes an additional $20 million to fund school and community-based prevention efforts at the state and local level. Funds are to be targeted to rural and other areas, like Iowa, that are experiencing high increases in methamphetamine abuse. Funds would be used for education of children, parents, local law enforcement,
businesses and others about the dangers of methamphetamine and on how to identify likely users and producers of the drug.

Expanded Treatment to Fight Meth Addiction. To combat methamphetamine abuse is a well-designed, adequately funded treatment program for those who become addicted to the drug. Funds would be used to develop and evaluate effective treatment methods for methamphetamine abusers, to train health professionals about effective treatment methods and to help individuals quit treatment. The bill also encourages targeted pilot programs to develop new and innovative treatment methods.

Expanded Research to Develop Improved Prevention and Treatment Strategies. While there are a number of local programs and strategies that are working to combat meth, additional research is needed to develop improved approaches. Our legislation calls on the National Institute on Drug Abuse (NIDA) to fund research to identify and evaluate the most effective methods of treatment and prevention, as well as the biomedical, neurological and physiological causes and effects of methamphetamine abuse and addiction. In addition, the legislation requires the National Institute on Drug Abuse to disseminate their research results to Federal, State and local organizations involved in combating meth abuse.

By Mr. McCARTHY:

S. 2349. A bill to authorize appropriations for the hazardous materials transportation program, and for other purposes. An amendment to the Commerce, Science, and Transportation Appropriations Act of 1999.

Hazardous Materials Transportation Reauthorization Act of 1998

Mr. MCCAN. Mr. President, today I am introducing the Hazardous Materials Transportation Reauthorization Act of 1999. This legislation is identical to the reauthorizing provisions approved by the Senate earlier this year under Subtitle B of Title III of S. 1173, the Intermodal Surface Transportation Efficiency Act of 1998.

Mr. President, the Commerce Committee spent considerable time and effort developing and debating the safety provisions that were incorporated into the ISTEA reauthorization bill, ultimately entitled the Transportation Equity Act for the 21st Century—TEA—21 (P.L. 105-175). Once in conference with our House counterparts, we were faced with many difficult decisions and compromises. The one area that we did not reach agreement was the reauthorization of the Hazardous Materials Transportation programs administered by the Research and Special Programs Administration (RSPA) of the Department of Transportation.

Since the House had not acted to reauthorize this program in its version of ISTEA reauthorization legislation, we found ourselves unable to reach agreement on including it in the conference report. Therefore, the Senate must again take action to reauthorize the Hazardous Materials Transportation Act.

Mr. President, I want to stress that this bill I am introducing today is identical to the hazardous materials reauthorization the Senate passed earlier this year. The legislation proposing reauthorization provides for reauthorizing programs that ensure the safe transportation of hazardous materials. It also includes a number of provisions requested by the Administration that are intended to improve the hazardous materials transportation program. And again Mr. President, I will reiterate, this bill is identical to the proposal passed by the Senate on March 12, 1998.

Mr. President, it is very important for the Senate to take action on this important legislation and reauthorize all of our nation’s critical transportation safety programs. Therefore, I will be seeking to move this legislation through the Commerce, Science, and Transportation Committee in the very near future.

By Mr. SPECTER (for himself and Mr. SANTORUM):

S. 2350. A bill to clarify the application of toll restrictions to Delaware River Port Authority bridges, to the Committee on the Judiciary.

DELAWARE RIVER PORT AUTHORITY COMPACT CLARIFICATION

Mr. SPECTER. Mr. President, I introduce noncontroversial legislation which is essential to the ability of the Delaware River Port Authority to raise funds in the bond markets. Specifically, this bill clarifies that the 1987 law which repealed the thirty-year limit on toll collection set by the General Bridge Act of 1946 also applies to the Delaware River Port Authority’s bridges in Southeastern Pennsylvania and Southern New Jersey. It is arguable that this legislation is not necessary and that a court would construe the 1987 law in the Port Authority’s favor. However, to assure certainty for the financial markets and entities considering purchasing bonds issued by the Port Authority, I believe it is worthwhile for Congress to adopt legislation making this technical clarification.

By way of background, for many years, federal regulations governed the collection of tolls on bridges throughout the nation. Then, in the 1987 highway bill, congress repealed section 306 of the 1946 General Bridge Act which imposed a 30-year time limit on the collection of tolls. The bridges owned and operated by the Delaware River Port Authority, however, are governed by a 1952 act which Congress ratified the Pennsylvania-New Jersey compact establishing the Port Authority. Section 3 of that public law provided that the Port Authority’s bridges were expressly exempt from the 30-year limit of the General Bridge Act and were instead subject to a 50-year limit on the collection of tolls.

A strong case could be made that any existing statutory limit on the Port Authority was implicitly repealed by the 1987 highway bill because the limit in the 1952 act was drafted as an exception to a law that is no longer in effect (i.e., Section 506 of the General Bridge Act of 1946). However, since the 1952 Port Authority provision has not been technically repealed, I am proposing legislation to correct this oversight.

The legislative history of the Section 3 of the Port Authority compact legislation suggests that the 50-year toll-collection limit should no longer apply. Instead of having a lesser restriction than the 30-year limit, as was intended by Congress, if the 50-year limit were enforced, the Port Authority would be subject to a more stringent requirement than all other American bridges. According, I believe that my legislation is consistent with the intent behind the 1987 highway law to deregulate the collection of tolls nationwide.

The Port Authority is authorized to pledge its revenue, including that from tolls, to secure debts. To obtain financing for future economic development and to preserve the bridges it owns and operates, the Port Authority must have a guaranteed revenue stream. Although a court very likely would rule that the fifty-year limit on toll collection was implicitly repealed by the Highway Act of 1987, without direct legislation to that effect, the Port Authority’s bond counsel suggests it will be unable to borrow in the financial markets.

The importance of ensuring this borrowing ability is reflected in the Port Authority’s essential role in the economic development of Southeastern Pennsylvania and Southern New Jersey. The Port Authority owns and operates the Benjamin Franklin, Betsy Ross, Commodore Barry, and Walt Whitman bridges as well as the mass transit PATCO High Speed Line. The Port Authority is involved in port unification through another of its subsidiaries, the Port of Philadelphia and Camden. Finally, the Port Authority has been instrumental in regional development and the commercial revitalization of the Philadelphia waterfront. Its programs include the addition of public attractions at Penn Landing and the Camden Aquatic course as well as low-interest loans to expand Philadelphia’s American Street Enterprise Zone.

Given the importance of revitalizing the Delaware River region, I urge my colleagues to support this legislation.

ADDITIONAL COSPONSORS

S. 397

At the request of Mrs. BOXER, her name was added as a co-sponsor of S. 397, a bill to amend chapters 83 and 84 of title 5, United States Code, to extend the civil service retirement provisions of such chapter which are applicable to law enforcement officers, to inspectors of the Immigration and Naturalization Service, inspectors of the enforcement officers of the United States Customs Service, and revenue officers of the Internal Revenue Service.
At the request of Mr. LOTT, the name of the Senator from Pennsylvania [Mr. SANTORUM] and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 852, a bill to establish nationwide uniform requirements regarding the titling and registration of salvage, nonreparable, and rebuilding vehicles.

S. 943
At the request of Mr. SPECTER, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 943, a bill to amend title 49, United States Code, to clarify the application of the Act popularly known as the “Death on the High Seas Act” to aviation accidents.

S. 1251
At the request of Mr. D’AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1252
At the request of Mr. D’AMATO, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1459
At the request of Mr. GRASSLEY, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1459, a bill to amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing biomass.

S. 1734
At the request of Mrs. HUTCHISON, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income exclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 194
At the request of Mr. MACK, the names of the Senator from Kentucky [Mr. McCONNELL] and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 194, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 207
At the request of Mr. D’AMATO, the name of the Senator from New Hampshire [Mr. SAINETTE] was added as a cosponsor of S. 207, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 210
At the request of Mr. BIDEN, the name of the Senator from Louisiana [Mr. LANDRIEU] was added as a cosponsor of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 213
At the request of Mr. FRIST, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 222
At the request of Mr. GRASSLEY, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 229
At the request of Mr. MURkowski, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2259, a bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the Medicare program.

S. 206
At the request of Mr. TORRICELLI, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2265, a bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide Medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS.

S. 291
At the request of Mr. D’AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans.

S. 299
At the request of Mr. GRAMS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 2291, a bill to amend title 17, United States Code, to prevent the misappropriation of collections of information.

At the request of Mr. McCAIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 2296, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

S. 223
At the request of Mr. GRASSLEY, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 223, a bill to amend title XVIII of the Social Security Act to preserve access to quality health services under the medicare program.

SENATE CONCURRENT RESOLUTION 103
At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 103, A concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE CONCURRENT RESOLUTION 193
At the request of Mr. Reid, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Resolution 193, a resolution designating December 13, 1998, as “National Children’s Memorial Day.”

SENATE CONCURRENT RESOLUTION 199
At the request of Mr. TORRICELLI, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of Senate Resolution 199, a resolution designating the last week of April of each calendar year as “National Youth Fitness Week.”

SENATE RESOLUTION 257
At the request of Mr. MURkowski, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as “National Inhalant Abuse Awareness Day.”

AMENDMENT NO. 303
At the request of Mr. CAMPBELL the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of amendment No. 303 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

AMENDMENT NO. 3266
At the request of Mr. Kent the names of the Senator from Indiana [Mr. COATS], the Senator from Wyoming [Mr. ENZI], the Senator from Missouri [Mr. BOND], and the Senator from Kentucky [Mr. MCGOVERN] were added as cosponsors of amendment No. 3266 proposed to S. 2260, an original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

At the request of Mr. Kyl the names of the Senator from Indiana [Mr. COATS], the Senator from Wyoming [Mr. ENZI], the Senator from Missouri [Mr. BOND], and the Senator from Kentucky [Mr. McCONNELL] were added as cosponsors of amendment No. 3266 proposed to S. 2260, an original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

SENATE CONCURRENT RESOLUTION 109—EXPRESSING THE SENSE OF CONGRESS RELATIVE TO EXECUTIVE DEPARTMENTS AND AGENCIES, NATIONAL POLICIES, AND FEDERALISM
Mr. COVERDILL (for himself, Mr. CRAIG, and Mr. ENZI) submitted the following concurrent resolution; which
Whereas federalism is rooted in the knowledge that our political liberties are best assured by limiting the size and scope of the national government. Whereas the people of the States created the national government when they delegated to it enumerated governmental powers relating to matters beyond the competence of the individual States; Whereas all other sovereign powers, save those vested in the States by the Constitution, are reserved to the States or to the people as the tenth amendment to the Constitution requires; Whereas the people of the States are free, subject only to restrictions in the Constitution itself or in constitutionally authorized Act of Congress, to define the moral, political, and legal character of their lives; Whereas in most areas of governmental concern, the States uniquely possess the constitutional authority, resources, and the competence to discern the sentiments of the people and to govern accordingly; Whereas the nature of our constitutional system encourages a healthy diversity in the public policies adopted by the people of the several States according to their own conditions, needs, and desires; Whereas acts of the national government, whether by legislation, administrative, or judicial action, that exceed the enumerated powers of that government under the Constitution violate the principle of federalism established by the founding fathers; Whereas policies of the national government should recognize the responsibility of, and should encourage opportunities for, individual States, localities, communities, voluntary organizations, and private associations to achieve their personal, social, and economic objectives through cooperative effort; and Whereas in the absence of clear constitutional or statutory authority, the presumption of sovereignty should rest with the individual States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That executive departments and agencies should adhere, to the extent permitted by law, to the following criteria when formulating and implementing policies that have federalism implications:

(1) There should be strict adherence to constitutional authority for the action, and certain, and the national activity is necessitated by the presence of a problem of national scope.

(2) Federal action limiting the policymaking discretion of the States should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.

(3) It is important to recognize the distinction between matters of national scope (which may justify Federal action) and problems that are merely common to the States (which will not justify Federal action because, in the view of the Executive, acting individually or together, can effectively manage such issues).

(4) Constitutional authority for Federal action is conferred only when authority for the action may be found in a specific provision of the Constitution, when there is no provision in the Constitution prohibiting Federal action, and when the action does not encroach upon authority reserved to the States.

With respect to national policies administered by the States, the national government should grant the States the maximum administrative discretion possible. Intrusive federal oversight and administration is neither necessary nor desirable.

When undertaking to formulate and implement policies that have federalism implications, executive departments and agencies should—

(A) encourage States to develop their own policies to achieve program objectives and to work with appropriate officials in other States;

(B) refrain, to the maximum extent possible, from establishing uniform, national standards for programs, and when possible, defer to the States to establish standards; and

(C) when national standards are required, consult with appropriate officials and organizations representing the States in developing those standards.

The following special requirements for preemption of State law should be observed:

(A) To the extent permitted by law, executive departments and agencies should construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the statute expressly authorizes issuance of preemptive regulations promoting national objectives under a firm and palpable evidencing the conclusion that the Congress intended to delegate to the department or agency the authority to issue regulations preempting State law.

(B) If a Federal statute does not preempt State law, executive departments and agencies should construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the statute expressly authorizes issuance of preemptive regulations promoting national objectives under a firm and palpable evidencing the conclusion that the Congress intended to delegate to the department or agency the authority to issue regulations preempting State law.

(C) Any regulatory preemption of State law should be restricted to the minimum level necessary to achieve the objectives of the statute, subject only to restrictions in the Constitution itself or in constitutionally authorized Act of Congress, to define the moral, political, and legal character of their lives.

(D) When an executive department or agency foresees the possibility of a conflict between State law and federal law, the department or agency should consult the States to establish standards for programs and, when possible, from establishing uniform, national standards.

(E) When an executive department or agency proposes to take through adjudication or rulemaking to preempt State law, the department or agency should provide all affected States notice and an opportunity for appropriate participation in the proceedings.

Mr. COVERDELL. Mr. President, I rise today to speak on a concurrent resolution I have submitted, the subject of which is important not only to my constituents, but to anyone who stands for States rights and principles for the Constitution of the United States. Ironically, while in England last May President Clinton, with little fanfare or media attention, issued Executive Order (EO) 13083, EO 13083 in both its letter and intent seeks to give agencies greater preemptive authority over State and local law in the administration of Executive Branch policies. Ultimately this action is an attempt by the President to promote an agenda by circumventing Congress while subverting the Constitution and the principles of a limited federal government that the Framers were so careful to express in writing this document.

Mr. President, as members of Congress, we have each to uphold the Constitution. The President has done the same. And as we all know, the Constitution is our nation’s most important document. It establishes the way our government works; it establishes the freedoms American citizens enjoy and it provides for protections of those freedoms.

The Framers understood that individual freedom and centralized power are incompatible. Thus they set out not only to decentralize our federal government, but also to balance power held at the national level with the power held by individual states. The Tenth Amendment to the Constitution explicitly expresses this intent. It states “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” I believe that sentence is perfectly clear, yet our Federal Government continues to grow in size and scope.

Is this a reason, however, to allow continued federal infringement into state matters? Must we not at some point ask ourselves where we draw the line? I believe we must if we hope to preserve the meaning of the Constitution.

EO 13083 sacrifice states rights and Constitutional principles to empower further the Federal Government. It does so by broadly defining “matters of national or multi-state scope” that justify Federal action. “These loosely defined terms,” I believe, are of concern that is not confined by a single state’s boundaries; any matter involving a “need for national standards”; any matter in which “decentralization increases the costs of government;” or matters in which “States would be reluctant to impose necessary regulations because of fears that regulated business activity will relocate to other states;” and any matter related to Federally owned or managed property or natural resources, trust obligation or international organizations.” Such ambiguous terms give this Administration tremendous leeway to implement policies through executive order that might meet resistance in Congress—policies that deserve consideration by Congress before becoming law. Indeed, a number of recent newspaper articles demonstrate the President’s desires to move an agenda without Congressional approval. The President’s EO would allow circumvention of Congress while taking it to the Tenth Amendment. Mr. President, we should be wary of this.

This is why I submit today a concurrent resolution expressing the sense of
Congress that the intent of the Framers must guide federal executive departments and agencies when carrying out policies with federalism implications. Through this concurrent resolution Congress would reaffirm the principles of federalism the Framers used in writing the Constitution and express its sense regarding the criteria federal agencies should use in formulating and implementing policies that have federalism implications. Mr. President, I find it difficult when one looks at this resolution in a constitutional context, which is the context in which we must evaluate any legislation, to disagree with its findings and the criteria it establishes. I believe this Congress must make a statement on where it stands with the Executive Branch's attempts to encroach, through executive order, on state rights. This resolution is an opportunity for Congress to do so.

Mr. President, I ask through this resolution that each of us reaffirm the pledges we made when we first entered office. I ask that we recognize the importance of local and state governments to solve problems on their own terms and the powers given to the states by the Constitution. I ask that we honor the Framers' intent to limit the power of the Federal government.

A number of organizations representing all levels of local government have voiced objections to EO 13083. These include the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National Association of Counties, the U.S. Conference of Mayors, the National League of Cities and the International City/County Management Association. These groups are opposed to this order not only because of its content but because no official from state or local government was consulted during the drafting of the order. Mr. President, I urge you to go to the floor of the Senate on July 16, 1998, Washington Post article that describes the frustration these groups have with the Administration's lack of consultation. I find it strange that the Administration did not consult with the very groups this Executive Order would most affect.

This is not a political issue. This resolution seeks to address an executive action that strikes at the very foundation of our government and of our Constitutional values. The means by which the Clinton Administration hopes to achieve its objectives are an affront to the Constitution, the Congress, and the American people. At large. It is the intent of this Executive Order issued by the President to subvert the will of Congress and the will of the people through executive decree. I cannot imagine how the Framers intended our Federal democracy to work and I urge Congress to remind the executive branch that it is more important to return to the principles established in our Constitution than to continue the trend of increasing federal authority.

Mr. President, I ask unanimous consent that the Los Angeles Times article be printed in the Record. There being no objection, the article was ordered to be printed in the Record at page S8926.

[From the Los Angeles Times, Sat., July 4, 1998]

CLINTON TO BYPASS CONGRESS IN BLITZ OF EXECUTIVE ORDERS

(By Elizabeth Shogren)

Policy: President will use strategy to move his domestic program agenda with or without congressional help. He starts today with announcement of warning labels for unpasteurized juices.

WASHINGTON — Frustrated by a GOP-controlled Congress that lately has rebuffed him on almost every front, President Clinton plans a blitz of executive orders during the next few weeks, part of a White House strategy to make progress on Clinton's domestic agenda with or without congressional help.

His first unilateral strike will come today. According to a draft of Clinton's weekly radio address obtained by The Times, he plans to announce a federal regulation requiring warning labels on containers of fruit and vegetable juices that have not been pasteurized. Congress has not fully funded Clinton's $101-million food safety initiative, which among other things would pay for inspectors to ensure that tainted foods from other countries do not reach American consumers.

After that initiative, Clinton will take executive actions later in the week that are intended to improve health care and cut juvenile crime, according to a senior White House official. While not far-reaching, Clinton's proposals are intended to make gradual progress on largely popular social reforms until Republicans in Congress start to cooperate or lose power after the November elections.

"He's ready to work with Congress if they will work with him. But if they choose partisanship, he will choose progress," said Rahm Emanuel, senior policy advisor to the president. The power to issue executive orders originally was intended to give presidents rule-making authority over the executive branch, instead of sweeping public policy decisions.

Fresh from what aides view as a triumphant trip to China, Clinton is reportedly eager to exercise his executive powers to the hilt.

"He always comes back from these trips with a big head of steam, and this trip has been no different," said Paul Begala, another senior advisor. "This president has a very strong sense of the powers of the presidency, and is willing to use all of them."

Mindful of the recent Supreme Court decision striking down the line-item veto authority Clinton won last term, the president also hopes his executive-order offensive will demonstrate the limits of the legislative priorities, Emanuel said. "I am doing what I can to protect our families from contaminated food," Clinton says in the draft of today's radio address. "But Congress must do its part."

The latest series of executive orders is illustrative of a president who has used his unilateral authority more robustly and frequently than any of his predecessors.

Just last month, after the Senate rejected sweeping anti-smoking legislation, Clinton announced a survey on what cigarette brands teenagers smoke—in hopes of shaming the tobacco companies into getting serious about cutting teen smoking.

On the same day, eager to make health care fixes that Congress has not, he announced new coverage under the Medicare health insurance program for the elderly and charged federal agencies with signing up millions more poor children for health care.

Some in Congress have argued that Clinton's use of executive authority has gone too far, and several outside critics agree. "Clinton is pushing the envelope," says David Schoenbrn, a professor at New York Law School who is an expert in the field. "He's consistently trying to take more power than Congress gives him."

With most of his executive orders, no matter how incremental, Clinton hopes to prod Congress to pass more ambitious versions. For instance, last year he extended broader family leave provisions for federal employees while pushing Congress to pass legislation to provide similar opportunities for all other workers.

Clinton forewarned the country about his zeal for exercising executive powers in his 1992 acceptance speech at the Democratic National Convention, saying: "President Bush, if you don't want the people to step aside, I will." Of course, other presidents have used executive authority to meet their policy goals. Abraham Lincoln used it to declare a national holiday. Franklin D. Roosevelt used it to help set up the New Deal. Harry S. Truman used it to integrate the armed forces. But Clinton has rewritten the manual on how to use executive powers, say some political analysts argue. His formula includes pressing the limits of his regulatory authority, signing executive orders and using other unilateral actions when Congress fails to embrace them.

Clearly, the growing antagonism between the president and Congress makes it likely that Clinton will continue to govern by fiat. "It depends on the political environment whether presidents push their limits or not," said Marcia Hamilton, professor of constitutional law at Cardozo Law School in New York. "If you don't have the help, you do it because he's stuck with a Congress that is not politically aligned with him." This is all the more true this year, since Congress feels emboldened by a result of the legal crisis he faces because of independent counsel Kenneth W. Starr's investigation.

"This president has extraordinary lame-duck status," Hamilton added. "There is very little incentive for Congress to go along with him. A president who has a strong working relationship and looks powerful to Congress is less likely to push the limits."

But analysts charge that Clinton continues to create the problem by ceding so much authority to the president. In one recent example, Congress directed the Federal Communications Commission to subsidize the wiring of schools, libraries and rural health care facilities for high-speed Internet access, but Clinton can ignore its directive. He also argues that the FCC for passing on costs to telephone companies, which are in turn passing on costs to consumers.

In the bottom line is the Congress gave the administration power to do this. But they'd like to have it both ways," said Jeromy Taylor, "They want to say: 'I voted for universal Internet service, but I didn't vote for a tax hike to pay for it.' It's that absurdness of responsibility on the part of Congress that has transformed American politics."
Mr. NICKLES (for himself, Mr. INHOFE, and Mr. SESSIONS) proposed an amendment to the bill (S. 2260) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place in title II, insert the following:

**SEC. 2. COMPENSATION OF ATTORNEYS.**

(a) Controlled Substances Act.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following:

``(B)(i) Notwithstanding any other provision of law, the amount of compensation paid to each attorney appointed under this subsection shall not exceed, for work performed by that attorney during any calendar month, an amount determined to be the amount of compensation (excluding health and other employee benefits) that the United States Attorney for the district in which the action is to be prosecuted receives for the calendar month that is the subject to a request for compensation made in accordance with this paragraph.

(ii) The court shall grant an attorney compensation for work performed during any calendar month at a rate authorized under subparagraph (A), except that such compensation may not be granted for any calendar month in an amount that exceeds the maximum amount specified in clause (i).'';

(b) Adequate Representation of Defendants.—Section 300A(d)(3) of title 18, United States Code, is amended—

(1) by striking “Payment” and inserting the following:

``(A) In general.—Subject to subparagraph (B), payment;'' and

(2) by striking at the end the following:

``(B) Maximize payments.—The payments approved under this paragraph for work performed by an attorney during any calendar month may not exceed a maximum amount determined under section 408(q)(10)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(10)(B)).''

CONGRESSIONAL RECORD — SENATE

**BINGAMAN (AND DOMENICI) AMENDMENT NO. 3273**

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert:

Notwithstanding any rights already conferred under the Trademark Act, Section 2 of the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,” approved July 5, 1946, commonly referred to as the Trademark Act of 1946 (15 U.S.C. 1052(b)), is amended in subsection (a)(7) thereof so as to any federally recognized Indian tribe,” after “State or municipality,”.

**AMENDMENTS SUBMITTED**

**DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999**

**NICKLES (AND OTHERS) AMENDMENT NO. 3272**

Mr. NICKLES (for himself, Mr. INHOFE, and Mr. SESSIONS) proposed an amendment to the bill (S. 2260) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place in title II, insert the following:

**SEC. 1. SHORT TITLE; DEFINITIONS.**

(a) Short Title.—This Act may be cited as the “Local Government Law Enforcement Block Grant Act of 1999.”

(b) Definitions.—In this Act:

(1) Director.—The term “Director” means the Director of the Bureau of Justice Assistance of the Department of Justice.

(2) Juvenile.—The term “juvenile” means an individual who is 17 years of age or younger.

(3) Law Enforcement Expenditures.—The term “law enforcement expenditures” means the current operation expenditures associated with police, prosecutorial, legal, and judicial services, and corrections as reported to the Bureau of the Census.

(4) Part 1 Violent Crimes.—The term “part 1 violent crimes” means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

(5) Payment Period.—The term “payment period” means each 1-year period beginning on October 1 of any year in which a grant under this Act is awarded.

(6) State.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as 1 State and that, for purposes of section 5(a), 25 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

(7) Unit of Local Government.—The term “unit of local government” means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a general purpose unit of local government, as determined by the Secretary of Commerce for general statistical purposes, including a parish sheriff in the State of Louisiana;

(B) the District of Columbia and the recognized governing body of an Indian tribe or Alaska Native village that carries out substantial governmental duties and powers; and

(C) the Commonwealth of Puerto Rico, in addition to being considered a State, for the purposes set forth in section 2(a)(2).

**SECT. 2. PAYMENTS TO LOCAL GOVERNMENTS.**

(a) Payment and Use.—

(1) Payment.—The Director shall pay to each unit of local government under this section that qualifies for a payment under this Act an amount equal to the sum of any amounts allocated to such unit under this Act for each payment period. The Director shall pay such amount from amounts appropriated to carry out this Act.

(2) Use.—Amounts paid to a unit of local government under this section shall be used by the unit for reducing crime and improving public safety, including but not limited to, 1 or more of the following purposes:

(A) Hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel;

(B) Enhancing security measures—

(i) in and around schools; and

(ii) in and around any other facility or location that is considered a unit of local government to have a special risk for incidents of crime.

(C) Establishing crime prevention programs that may, though not exclusively, involve law enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood watch and citizen patrol programs, sexual assault and domestic violence programs, and programs intended to prevent juvenile crime.

(D) Establishing or supporting drug courts.

(E) Establishing early intervention and prevention programs for juveniles to reduce or eliminate crime.

(F) Enhancing the adjudication process of cases involving violent offenders, including the adjudication process of cases involving violent juvenile offenders.

(G) Enhancing programs under subpart 1 of part E of the Omnibus Crime Control and Safe Streets Act of 1968.

(H) Establishing cooperative task forces between adjoining units of local government to work cooperatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug or gang-related involvement.

(I) Establishing a multijurisdictional task force, particularly in rural areas, composed of law enforcement officials representing units of local government, that works with Federal law enforcement officials to prevent and control crime.

(J) Establishing or supporting programs designed to collect, record, retain, and disseminate information useful in the identification, prosecution, and sentencing of offenders, such as criminal history information, fingerprints, DNA tests, and ballistics tests.

(3) Definitions.—In this subsection—

(A) the term ‘violent offender’ means a person convicted of committing a part 1 violent crime; and

(B) the term ‘drug courts’ means a program that involves—

(i) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders; and

(ii) the integrated administration of other sanctions and services, which shall include—

(I) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

(II) substance abuse treatment for each participant;

(III) probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration on noncompliance with program requirements or failure to show satisfactory progress; and

(IV) programmatic, offender management, and aftercare services such as relapse prevention, vocational job training, job placement, and housing placement.

(b) Prohibited Uses.—Notwithstanding any other provision of this Act, a unit of local government may not expend any of the funds provided under this Act to purchase, lease, rent, or otherwise acquire—

(1) tanks or armored personnel carriers;

(2) fixed wing aircraft;

(3) limousines;

(4) real estate;

(5) yachts;

(6) consultants; or
(7) vehicles not primarily used for law enforcement; unless the Attorney General certifies that extraordinary and exigent circumstances exist that make the use of funds for such purposes necessary to the maintenance of public safety and good order in such unit of local government. With regard to paragraph (2), such circumstances shall be deemed to exist if the unit of local government is a unit of local government in a rural State, as defined in section 101 of the Omnibus Crime Control and Safe Streets Act of 1966 (42 U.S.C. 3796b), upon certification by the chief law enforcement officer of the unit of local government that the unit of local government is experiencing an increase in production or cultivation of controlled substances or listed chemicals (as defined in section 102 of the Controlled Substances Act), and that the fixed wing aircraft will be used in the detection, disruption or abatement of such production or cultivation.

(c) Timing of Payments.—The Director shall pay each unit of local government that has submitted an application under this Act not later than the later of—

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

(2) the end of the payment period if the unit of local government has provided the Director with the assurances required by section 4(c).

(d) Adjustments.—

(1) In General.—Subject to paragraph (2), the Director shall adjust a payment under this Act to a unit of local government to the extent that a prior payment for any unit of local government was more or less than the amount required to be paid.

(2) Considerations.—The Director may increase or decrease under this subsection a payment to a unit of local government only if the Director determines the need for the increase or decrease, or if the unit requests the increase or decrease, not later than 1 year after the end of the payment period for which a payment was made.

(e) Reservation for Adjustment.—The Director may reserve a percentage of not more than 2 percent of the amount under this section for a payment period for all units of local government in a State if the Director determines that the local government was more or less than the amount required to be paid.

(f) Availability of Expenditure Amounts.—

(1) Payment Required.—A unit of local government shall repay to the Director, by increase or decrease, or if the unit requests if the Director determines the need for the payment to a unit of local government only the part of the amount that was paid to the unit of local government in a State, as defined in section 101 of the Omnibus Crime Control and Safe Streets Act of 1966 (42 U.S.C. 3796b), upon certification by the chief law enforcement officer of the unit of local government that the unit of local government is experiencing an increase in production or cultivation of controlled substances or listed chemicals (as defined in section 102 of the Controlled Substances Act), and that the fixed wing aircraft will be used in the detection, disruption or abatement of such production or cultivation.

(g) NonSupplanting Requirement.—Funds made available under this Act to units of local government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds made available under this Act, be made available from State or local sources.

(h) Matching Funds.—The Federal share of a grant received under this Act may not exceed 90 percent of the costs of a program or proposal funded under this Act. No funds provided under this Act may be used as matching funds for any other Federal grant program.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.—

There are authorized to be appropriated to carry out this Act $750,000,000 for each of fiscal years 1998 through 2003.

(b) Oversight Accountability and Administration.—The Director may in such designated fund after 5 years following the date on which a grant is made available under this Act, shall be deposited in a trust fund in which the government shall not be used to supplant State or local funds, but shall be used to increase the amount of funds that would, in the absence of funds made available under this Act, be made available from State or local sources.

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established by the Attorney General and the Secretary of Defense. To the extent practicable, the Director shall endeavor to inform members who were separated between October 1, 1968, and the date of enactment of this Act of their eligibility for the employment preference.

(d) S Ituations FOR NonCompliance. —
(1) IN GENERAL. — If the Director determines that a unit of local government has not complied substantially with the requirements of or regulations prescribed under subsections (a) and (c), the Director shall notify the unit of local government that if the unit of local government does not take corrective action within 30 days after such notice, the Director will withhold additional payments to the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government has taken the appropriate corrective action; and
(2) will comply with the requirements and regulations prescribed under subsections (a) and (c).

(2) Notice. — Before giving notice under paragraph (1), the Director shall carry the chief executive officer of the unit of local government reasonable notice and an opportunity for comment.

(e) MAINTENANCE OF EFFORT REQUIREMENTS. — (a) A unit of local government qualifies for a payment under this Act for a payment period only if the unit’s expenditures on law enforcement services for such payment period are sufficient to pay in full the amount allotted to the unit for the payment period. In determining the sufficiency of such services, the unit’s expenditures on such services for the second fiscal year preceding the fiscal year in which the payment period occurs shall not be less than 90 percent of the unit’s expenditures on such services for the first fiscal year preceding the fiscal year in which the payment period occurs.

SEC. 5. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) State Set-Aside. —
(1) IN GENERAL. — Of the total amounts appropriated for this Act for each payment period, the Director shall allocate 15 percent of the amounts available to units of local government in each State an amount that bears the same ratio to such total as the average annual number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 most recent calendar years for which such data is available, bears to the number of part 1 violent crimes reported by the State to the Federal Bureau of Investigation for such years. The amount so allocated shall be transferred to the chief executive officer of the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government has taken the appropriate corrective action.

(b) Local Distribution. —
(1) IN GENERAL. — From the amount received for each State under subsection (a), the Director shall allocate a portion of the funds allocated to each unit of local government an amount that bears the same ratio to the aggregate amount of such funds as
(A) the product of—
(i) two-thirds; multiplied by
(ii) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, to the sum of such violent crime in all units of local government in the State; and
(B) the product of—
(i) one amount divided by
(ii) the ratio of the law enforcement expenditure, for such unit of local government for the most recent year for which such data is available, to the total payment that any State is otherwise eligible to receive under paragraph (1) of this subsection;
(2) EXPENDITURES. — The allocation any unit of local government shall receive under paragraph (1) of this subsection shall not exceed 100 percent of law enforcement expenditures of the unit for such payment period.
(3) REALLOCATION. — The amount of any unit of local government’s allocation that is not available to such unit by operation of paragraph (2) shall be reallocated to other units of local government that are not affected by such operation in accordance with this subsection.

(c) Local Governments With Allocations of Less Than $10,000. — If under paragraph (1) a unit of local government is allotted less than $10,000 for a payment period, the amount allotted shall be transferred to the chief executive officer of the unit of local government who shall distribute such funds among State police departments that provide law enforcement services to units of local government and units of local government is less than such amount in a manner that reduces crime and improves public safety.

(d) Unavailability and Inaccuracy of Information. —
(1) Data for States. — For purposes of this section, if data regarding part 1 violent crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data for purposes of this section. If data regarding part 1 violent crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data for purposes of this section. If data regarding part 1 violent crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data for purposes of this section. If data regarding part 1 violent crimes in any State for the 3 most recent calendar years is unavailable, insufficient, or substantially inaccurate, the Director shall utilize the best available comparable data for purposes of this section.

(e) Reports. — Each State shall submit a report to the Attorney General and the Attorney General shall reserve 0.3 percent for grants to Indian tribal governments performing law enforcement functions, to be used for the purposes described in section 2. To be eligible for a grant with amounts set aside under this paragraph, a tribe shall have made expenditures of the unit for such payment period and the amount so allocated shall be transferred to the chief executive officer of the unit of local government for the current and future payment periods until the Director is satisfied that the unit of local government has taken the appropriate corrective action.

(f) IN GENERAL. — None of the funds made available by this Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—
(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse health effects that may result from exposure to copper in drinking water that—
(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;
(B) is conducted in consultation with interested States;
(C) is based on the best available science and supporting studies that are subject to peer review and considered in accordance with sound and objective scientific practices; and
(D) is completed not later than 30 months after the date of enactment of this Act; and
(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that will protect public health against reasonably expected adverse effects due to exposure to copper in drinking water.

SEC. 6. UTILIZATION OF PRIVATE SECTOR.

(a) FUNDING. — Funds or a portion of funds allocated under this Act may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 2(a)(2).

(b) IN GENERAL. — A unit of local government expending payments under this Act shall hold not less than 1 public hearing on the proposed use of the payment from the Director in relation to its entire budget.

(c) TIME AND PLACE. — The unit of local government shall hold the hearing at a time and place that allows and encourages public attendance and participation.

SEC. 8. ADMINISTRATIVE PROVISIONS.

The administrative provisions of part H of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782 et seq.), shall apply to this Act and for purposes of this section any reference in such provisions to title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) shall be deemed to be a reference to this Act.
drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

KERRY (AND OTHERS) 
AMENDMENT NO. 3276

Mr. KERRY (for himself, Mr. MCCAIN, Mr. KERREY, and Mr. HAGEL) proposed an amendment to the bill, S. 2260, supra; as follows:

Beginning on page 96, strike line 23 and all that follows through line 12 on page 100 and insert the following:

SEC. 405. None of the funds appropriated or otherwise made available by this Act may be obligated or expended to pay for any cost incurred for—

(1) opening or operating any United States diplomatic or consular post in the Socialist Republic of Vietnam that was not operating on July 11, 1995,

(2) expanding any United States diplomatic or consular post in the Socialist Republic of Vietnam that was operating on July 11, 1995, or

(3) increasing the total number of personnel and any United States diplomatic or consular posts in the Socialist Republic of Vietnam above the levels existing on July 11, 1995, unless the President certifies within 60 days the following:

(A) Based upon all information available to the United States Government, the Government of the Socialist Republic of Vietnam is fully operating in good faith with the United States in the following:

(i) Resolving discrepancy cases, live sightings, and field activities.

(ii) Recovering and repatriating American remains.

(iii) Accelerating efforts to provide documents that will help lead to fullest possible accounting of prisoners of war and missing in action.

(iv) Providing further assistance in implementing trilateral investigations with Laos.


(C) The Secretary of Commerce may—

(i) accept, receive, solicit, hold, administer, and use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

(ii) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

(3) In a manner consistent with subsection (c)(1), the Foundation may—

(A) use any gift, devise, or bequest made to the Foundation for the express purpose of supporting whale conservation; and

(B) deposit in the endowment fund under paragraph (1) any funds made available to the Foundation under this subparagraph, including any income or interest earned from a gift, devise, or bequest received by the Foundation under this subparagraph.

(4) To raise funds to be deposited in the endowment fund under paragraph (1), the Foundation may enter into appropriate arrangements to provide for the design, copyright, production, marketing, or licensing, of logos, seals, decals, stamps, or any other item that the Foundation determines to be appropriate.

(5) The Secretary of Commerce may transfer to the Foundation for deposit in the endowment fund under paragraph (1) any amount (or portion thereof) received by the Secretary under section 105(a)(1) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375a(1)) as a civil penalty assessed under section 4 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

(6) The Directors of the Board shall ensure that any amount that is deposited in the Foundation under clause (i) of the endowment fund under paragraph (1) is deposited in that fund in accordance with this subparagraph.

TITLES

TITLE V—INDEPENDENT AGENCIES
FEDERAL COMMUNICATIONS COMMISSION

On page 105, at the end of line 22, insert the following: "Provided further, That any two stations of that are primary affiliates of the same broadcast network within any given designated market area authorized to deliver a digital signal November 1, 1998 must be guaranteed access on the same terms and conditions as any multichannel video provider (including off-air, cable and satellite distribution)."

AMENDMENT NO. 3278

At the end of title IV, insert the following new sections:

SEC. . None of the funds appropriated or otherwise made available for this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

SEC. . None of the funds appropriated or otherwise made available by this Act or any other Act for fiscal year 1999 or any fiscal year thereafter may be expended for the publication of an amendment document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

AMENDMENT NO. 3279

At the end of the bill insert the following new title:

TITLES

SECTION 1. SHORT TITLE.

This title may be cited as the "National Whale Conservation Act of 1998."

SEC. 2. FINDINGS.

Congress finds that—

(A) the populations of whales that occur in waters of the United States are resources of substantial ecological, scientific, socioeconomic, and esthetic value;

(B) the interactions that occur between whale populations is an important component of marine ecosystems;

(C) the migration of whale populations is subject to difficult challenges related to—

(i) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(ii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(iii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(iv) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(v) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(vi) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(vii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(viii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(ix) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(x) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xi) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xiii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xiv) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xv) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xvi) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xvii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xviii) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xix) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;

(xx) the size of individual whales, as that size precludes certain conservation research and management activities that may be used for other animal species, such as captive research and breeding;


(8) the funding available for the activities described in paragraph (8) is insufficient to support all necessary whale conservation and research activities; and

(9) there is a need to facilitate the use of funds from non-Federal sources to carry out the conservation of whales.

SECTION 3. NATIONAL WHALE CONSERVATION FUND.

Section 4 of the National Fish and Wildlife Establishment Act (16 U.S.C. 3703) is amended by adding at the end the following:

"(2) In carrying out the purposes under section 2(b), the Foundation may establish a national whale conservation endowment fund, to be used by the Foundation to support research, management activities, or educational programs that contribute to the protection, conservation, or recovery of whale populations in waters of the United States;"
"(g) In carrying out any action on the part of the Foundation under subsection (f), the Directors of the Board shall consult with the Administrator of the National Oceanic and Atmospheric Administration and the Marine Mammal Commission."

LIEBERMAN (AND OTHERS) AMENDMENT NO. 3280
Mr. LIEBERMAN (for himself, Mr. THOMAS, Mr. GRAHAM, Mr. LUGAR, Mr. BINGAMAN, Mr. MACK, Mr. DURBIN, Mr. INHOFE, Mr. KOHL, Mr. REID, Mr. BREAX, Mr. BROWNBACK, Mr. CRAIG, and Mr. SMITH of Oregon) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 6. SENSE OF THE SENATE REGARDING JAPAN'S RECESSION.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and Japan share common goals of peace, stability, democracy, and economic prosperity in East and Southeast Asia and around the world.

(2) Japan's economic and financial crisis represents a challenge to United States-Japanese cooperation to achieve these common goals and threatens the economic stability of East and Southeast Asia and the United States.

(3) A strong United States-Japanese alliance is critical to stability in East and Southeast Asia.

(4) The importance of the United States-Japanese alliance was reaffirmed by the President of the United States and the Prime Minister of Japan in the April 1996 Joint Security Declaration.

(5) United States-Japanese bilateral military cooperation was enhanced with the revision of the United States Guidelines for Defense Cooperation in 1997.

(6) The Japanese economy, the second largest in the world and over 2 times larger than the economy in the rest of East Asia, has been growing at a little over 1 percent annually since 1991 and is currently in a recession with some forecasts suggesting that it will continue in 1998.

(7) The estimated $574,000,000,000 of problem loans in Japan's banking sector and other problems associated with an unstable banking sector remain the major roadblock to economic recovery in Japan.

(8) The recent weakness in the yen, following a 10 percent depreciation of the yen against the dollar over the last 5 months and a 45 percent depreciation since 1995, has placed competitive pressure prices United States industries and workers and is putting downward pressure on China and the rest of the economies in East and Southeast Asia to begin another round of competitive currency devaluations.

(9) Japan's current account surplus has increased by 60 percent over the last 12 months from $17,597,000,000 yen in 1996 to $11,357,000,000 yen in 1997.

(10) A period of deflation in Japan would lead to lower demand for United States products.


(12) Deregulating Japan's economy and spurring growth would ultimately benefit the Japanese people with a higher standard of living and a more secure future.

(13) Japan's economic recession is slowing the global economy.
Mr. GREGG (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 51, between lines 9 and 10, insert the following:

SEC. 121. INTERNET PREDATOR PREVENTION.

(a) PROHIBITION AND PENALTIES.—(a) Paragraph (3) of section 102 of the Act, as amended by Pub. L. No. 105–66, is amended by adding at the end the following:

§ 2261. Publication of identifying information relating to a minor for criminal sexual purposes.

(b) DEFINITION OF IDENTIFYING INFORMATION RELATING TO A MINOR.—In this section, the term ‘identifying information relating to a minor’ includes the name, address, telephone number, driver’s license number, or e-mail address of a minor.

(c) COMPUTER SERVICE.—In this section, the term ‘computer service’ means the provision of Internet access services, the transmission of communications, the transmission of stored information, or any other service involving the use of telecommunications facilities.

(d) OBLIGATIONS OF INTERNET ACCESS PROVIDERS.—(1) In general.—An Internet access provider shall, at the time of entering into an agreement with a customer for the provision of Internet access services, offer such customer, at the customer’s request, the option to provide for the customer the ability to limit access to material on the Internet that is harmful to minors.

(2) Effect of nondisclosure.—Whoever, with respect to a customer to whom an Internet access service is provided for criminal sexual purposes.

Mr. GREGG (for Mr. DODD) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 117, line 6, strike ‘‘to this appropriation and used for necessary expenses of the agency’’ and insert in lieu thereof ‘‘to and merged with the appropriations for salaries and expenses of the Internet access services provider by a common carrier.’’

‘‘(C) SCREENING SOFTWARE.—The term ‘screening software’ means software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.’’

(b) EFFECTIVE DATE.—This section shall take effect 180 days after the date of enactment of this Act.

At the appropriate place, insert:

SEC. 12. TRANSFER OF COUNTY. (a) Section 118 of title 28, United States Code, is amended—

(ii) in subsection (a) by striking ‘‘Philadelphia, and Schuykill’’ and inserting ‘‘and Philadelphia’’; and

(iii) in subsection (b) by inserting ‘‘Schuylkill, after ‘‘Potter’’.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

Mr. GREGG (for Mr. BYRD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following new section:

SEC. 23. REPORT ON KOREAN STEEL SUBSIDIES. (a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the United States Trade Representative (in this section referred to as the ‘‘Trade Representative’’) shall report to Congress on the Trade Representative’s analysis regarding—

(1) whether the Korean Government provided subsidies to Hanbo Steel; and

(2) whether such subsidies had an adverse effect on United States companies;

(3) the status of the Trade Representative’s contacts with the Korean Government with respect to industry concerns regarding Hanbo Steel and efforts to eliminate subsidies; and

(4) the status of the Trade Representative’s contacts with other Asian trading partners regarding the adverse effect of Korean steel subsidies on such trading partners.

The report described in subsection (a) shall also include information on the status of any investigations initiated as a result of press reports that the Korean Government ordered Pohang Iron and Steel Company, in which the Government owns a controlling interest, to sell...
steel in Korea at a price that is 30 percent lower than the international market prices.

MURKOWSKI (AND STEVENS)
AMENDMENT NO. 3289
Mr. GREGG (for Mr. MURKOWSKI for himself and Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:
On page 135, between lines 11 and 12, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GMDSS).

KYL AMENDMENTS NOS. 3290-3291
Mr. GREGG (for Kyl) proposed two amendments to the bill, S. 2260, supra; as follows:

Amendment No. 3290
At the appropriate place, insert the following:

SEC. 620. Notwithstanding any other provision of law, no funds appropriated or otherwise available for fiscal year 1999 by this Act or any other Act may be obligated or expended for purposes of enforcing any rule or regulation requiring the installation or operation aboard United States fishing industry vessels of the Global Maritime Distress and Safety System (GMDSS).

Amendment No. 3291
On page 100, between lines 18 and 19, insert the following:

Sec. 407. (a) Waiver of Fees for Certain Visas
(1) Requirement.—(A) In General.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for a machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has been issued a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(b) Delay of Commencement.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) Period of Validity of Visas.—

(A) In General.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been charged under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) Exception.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State shall grant an exception to the requirement in subparagraph (A) if the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as the visa issued for nonimmigrant visas under such section.

(3) Recoupment of Costs Resulting from Waiver.—In no event shall the Secretary of State set the amount of the fee or surcharge authorized pursuant to subsection (4)(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of nonimmigrant visas to exceed $2,400,000, of which—

(i) the amount of the fee or surcharge for aliens described in section 101(a)(15) of the Immigration and Nationality Act (including section 306 of the Act entitled `An Act making appropriations for the Department of State, the Department of Commerce, justice, and the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled `An Act making appropriations for the Departments of Commerce, Justice, and the Judiciary, and related agencies for the fiscal year ending September 30, 1997' (110 Stat. 3009-201)) and except as provided in subsection (f) of section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the processing of applications for nonimmigrant visas at United States consular posts, particularly during peak travel periods; and

(ii) the amount of the fee or surcharge for aliens described in section 101(a)(15) of the Immigration and Nationality Act for which the fee is waived under section 101(a)(15)(B) of the Immigration and Nationality Act, has at least one parent or guardian who has been issued a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visas for which the fee is waived pursuant to this subsection.

(4) Appropriations.—(A) In General.—Except as provided in paragraph (2), the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) for the processing of nonimmigrant visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act for which the fee is waived under such section.

(B) Exception.—The term "nonimmigrant visas" includes nonimmigrant visas at a level that will ensure the appropriate level of resources to improve the processing of nonimmigrant visas and finds that this requirement should be reflected in any timeliness standards or other regulations governing the issuance of visas.

(5) The Secretary of State shall conduct a study to determine, with respect to the processing of nonimmigrant visas within the Department of State—

(a) the adequacy of staffing at United States consular posts, particularly during peak travel periods;

(b) the adequacy of service to international tourism;

(c) the adequacy of computer and technical support to consular posts;

(d) the appropriate standard to determine whether a country qualifies as a pilot program country under the visa waiver pilot program in section 217 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(e) the studies conducted under subsection (c) and (d) the Secretary of State has at least one parent or guardian who has been issued a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visas for which the fee is waived pursuant to this subsection.

Lott Amendment No. 3293
Mr. GREGG (for Mr. LOTT) proposed an amendment to the bill, S. 2260, supra; as follows:
On page 86, line 8, insert the following:

Mr. GREGG (for Mr. GRAHAM) proposed an amendment to the bill, S. 2260, supra; as follows:

Amendment No. 3292
On page 100, between lines 18 and 19, insert the following:

Sec. 407. (a) Waiver of Fees for Certain Visas
(1) Requirement.—(A) In General.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of State and the Attorney General shall waive the fee for the processing of any application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act in the case of any alien under 15 years of age where the application for a machine readable combined border crossing card and nonimmigrant visa is made in Mexico by a citizen of Mexico who has at least one parent or guardian who has been issued a visa under such section or is applying for a machine readable combined border crossing card and nonimmigrant visa under such section as well.

(b) Delay of Commencement.—The Secretary of State and the Attorney General may not commence implementation of the requirement in subparagraph (A) until the later of—

(i) the date that is 6 months after the date of enactment of this Act; or

(ii) the date on which the Secretary sets the amount of the fee or surcharge in accordance with paragraph (3).

(2) Period of Validity of Visas.—

(A) In General.—Except as provided in subparagraph (B), if the fee for a machine readable combined border crossing card and nonimmigrant visa issued under section 101(a)(15)(B) of the Immigration and Nationality Act has been charged under paragraph (1) for a child under 15 years of age, the machine readable combined border crossing card and nonimmigrant visa shall be issued to expire on the earlier of—

(i) the date on which the child attains the age of 15; or

(ii) ten years after its date of issue.

(B) Exception.—At the request of the parent or guardian of any alien under 15 years of age otherwise covered by subparagraph (A), the Secretary of State shall grant an exception to the requirement in subparagraph (A) if the processing of an application for the issuance of a machine readable combined border crossing card and nonimmigrant visa under section 101(a)(15)(B) of the Immigration and Nationality Act provided that the machine readable combined border crossing card and nonimmigrant visa is issued to expire as of the same date as the visa issued for nonimmigrant visas under such section.

(3) Recoupment of Costs Resulting from Waiver.—In no event shall the Secretary of State set the amount of the fee or surcharge authorized pursuant to subsection (4)(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 8 U.S.C. 1351 note) for the processing of nonimmigrant visas to exceed $2,400,000, of which—

(i) the amount of the fee or surcharge for aliens described in section 101(a)(15) of the Immigration and Nationality Act (including section 306 of the Act entitled `An Act making appropriations for the Department of State, the Department of Commerce, justice, and the Judiciary, and related agencies for the fiscal year ending September 30, 1997,' contained in section 101(a) of title I of division A of the Act entitled `An Act making appropriations for the Departments of Commerce, Justice, and the Judiciary, and related agencies for the fiscal year ending September 30, 1997' (110 Stat. 3009-201)) and except as provided in paragraph (2), the term "nonimmigrant visas" means visas issued to aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(ii) the term "timeliness standards" means standards governing the timely processing of applications for nonimmigrant visas at United States consular posts.

Amendment No. 3294
Mr. GREGG (for Mr. BIDEN) proposed an amendment to the bill, S. 2260, supra; as follows:

Biden Amendment No. 3294
Mr. GREGG (for Mr. BIDEN) proposed an amendment to the bill, S. 2260, supra; as follows:
(A) by inserting "and other than services described in clause (c)" after "subparagraph (O) or (P)"; and,

(B) by inserting after "section 212(n)(1)"

(1) the following

"(I) The term `replace' means the employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment other than a discharge for inadmissibility, or any other employment 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101(a)(15)(L)''.

amended by inserting ``or section

section 214(c)(2)(C) (8 U.S.C. 1184(c)(2)(C)) is

whether or not the employee accepts the

ployer at the equivalent or higher compensa-

native to such loss of employment, a similar

individual involved is offered, as an alter-

does not include any situation in which the

tract, or other agreement. The term `laid off'

retirement, or the expiration of a grant, con-

work overseas in professional, technical, and

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mmitted by inserting ``of Labor'' after ``Secretary'' each

coverage of nuclear weapons in India or the

(3) An analysis of progress made by edu-

nment to the National Science Foundation

COUNTRIES SUBJECT TO SUBSECTION (e).ÐIn the

The extent to which globalization has

referring to the wages of United States workers

institutions, entities, and agencies in the area

employment opportunity with the same em-

equal or higher compensa-

benefits and as the position from which the

view was discharged, regardless of whether or not the employee accepts the offer.

``(aa) a citizen or national of the United

``(bb) an alien who is lawfully admitted for

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``(cc) an alien authorized to be employed

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whether or not the employee accepts the

ployer at the equivalent or higher compensa-

native to such loss of employment, a similar

individual involved is offered, as an alter-

does not include any situation in which the

tract, or other agreement. The term `laid off'

retirement, or the expiration of a grant, con-

number of visas issued under section 203(b) for a cal-

nder quarter exceeds the number of quali-

fied immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

LIMITING FALL ACROSS FOR CERTAIN

BY COUNTRIES SUBJECT TO SUBSECTION (a)(1).—In the

the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(b) for a calendar quarter exceeds the number of qualified immigrants who may otherwise be issued such visas, the visas made available under that paragraph shall be issued without regard to the numerical limitation under paragraph (2) of this subsection during the remainder of the calendar quarter.

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status until the alien’s application for adjustment of status has been processed and a decision made thereon.

(v) Section 212 (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

(p) Any alien admitted under section 101(a)(15)(L) of an honorarium payment and associated incidental expenses for a usual academic activity or activities, as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution of higher education (as described in section 120(a) of the Higher Education Act of 1965) or other nonprofit educational institution, is made for the benefit of that institution or entity.

(w) In GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking “or” at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (K) and inserting “; or”, and

(3) by adding at the end the following new subparagraph:

“(L) an immigrant who would be described in clause (i), (ii), (iii), or (iv) of subparagraph (K) if any reference in such a clause to the Secretary or Attorney General in the cases described in paragraph (15)(G)(i) were treated as a reference to the North Atlantic Treaty Organization (NATO);”.

(jj) In GENERAL.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(I)(i)”, and

(2) by inserting “(or under analogous authority under paragraph (27)(L))” after “(27)(II)”.

(y) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as amended by section 5 of this Act, is further amended—

(1) in subparagraph (C), by inserting “, or that the employer has intimidated, discharged, or otherwise retaliated against any person because that person has asserted a right or has cooperated in an investigation under this subparagraph after “a material fact in an application”; and

(2) by adding at the end the following new subparagraph:

“(F) any alien admitted to the United States, shall be allowed to seek other employment in the United States, or to apply without fiscal year limitation, to a nursing facility or home health care agency obtaining pursuant to this section may be used only by the facility or agency requesting the information and for the purpose of determining the suitability of the applicant for employment by the facility or agency in a position involved in direct patient care.

(e) FEES.—The Attorney General may charge a reasonable fee, not to exceed $50 per request, for any nursing facility or home health care agency requesting a search and exchange of records made under this section to cover the cost of conducting the search and providing the records.

(f) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress on the number of requests for searches of records made under this section by nursing facilities and home health agencies and the disposition of such requests.

(g) IMMUNITY FROM LIABILITY.—Whoever knowingly uses any information obtained pursuant to this section for a purpose other than as authorized under subsection (c) shall be fined in accordance with title 18, United States Code, imprisoned for not more than 2 years, or both.

(h) REGULATIONS.—The Attorney General may promulgate such regulations as are necessary to carry out this section, including regulations regarding the security, confidentiality, accuracy, use, destruction, and dissemination of information, audits and recordkeeping, the imposition of fees necessary for the recovery of costs, and any necessary modifications to the definitions contained in subsection (i).

(i) DEFINITIONS.—In this section:

(1) HOME HEALTH CARE AGENCY.—The term "home health care agency" means an agency that provides home health care or personal care services on a visiting basis in a place of residence.

(2) NURSING FACILITY.—The term "nursing facility" means a facility or institution (or a distinct part of an institution) that is primarily engaged in providing to residents of the facility or institution nursing care, including skilled nursing care, and related services for individuals who require medical or surgical care.

(j) APPLICABILITY.—This section shall apply without fiscal year limitation.
CONGRESSIONAL RECORD — SENATE

HATCH AMENDMENT NO. 3302

Mr. GREGG (for Mr. HATCH) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 9, beginning on line 15, strike "Attorneys." and insert the following: "Attorneys: Provided further, That of the total appropriation of $50,000 shall remain available to hire additional assistant U.S. Attorneys and investigators to enforce Federal laws designed to keep firearms out of the hands of criminals, and the Attorney General is directed to initiate a selection process to identify two (2) major metropolitan areas (which shall not be in the same geographic area or the United States which have an unusually high incidence of gun-related crime, where the funds described in this subsection shall be expended.

KERREY AMENDMENT NO. 3303

Mr. GREGG (for Mr. KERREY for himself, Mr. DORGAN, Mr. ROCKEFELLER, Mr. JEFFORDS, Ms. SNOWE, Mr. WELLSTONE, and Mr. LEAHY) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 72, between lines 16 and 17, insert the following:

SEC. 209. (a)(1) Notwithstanding any other provision of this Act, the amount appropriated by this title under "TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" is hereby increased by $9,000,000.

(2) The additional amount appropriated by paragraph (1) shall remain available until expended.

(b)(1) Notwithstanding any other provision of this Act, the aggregate amount appropriated by this title under "DEPARTMENT OF COMMERCE" is hereby reduced by $9,000,000 with the amount of such reduction achieved by reductions of equal amounts from amounts appropriated by each heading under "DEPARTMENT OF COMMERCE" except the headings referred to in paragraph (2).

(2) Reductions under paragraph (1) shall not apply to the following amounts:

(A) Amounts appropriated under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "PUBLIC TELECOMMUNICATIONS FACILITIES PLANNING AND CONSTRUCTION" and under the heading "INFORMATION INFRASTRUCTURE GRANTS".

(B) Amounts appropriated under any heading under "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY".

(C) Amounts appropriated under any heading under "NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION".

(c)(1) Notwithstanding any other provision of this Act, the second proviso under "NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION" under the heading "INFORMATION INFRASTRUCTURE GRANTS" shall have no force or effect.

(2) Notwithstanding any other provision of law, no entity that receives telecommunication services at preferential rates under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) or receives assistance under the regional information sharing systems grant program of the Department of Justice under part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) may use funds under a grant under the heading referred to in paragraph (1) to cover any costs of the entity that would otherwise be covered by such preferential rates or such assistance, as the case may be.
MOSELEY-BRAUN AMENDMENT NO. 3304

Mr. GREGG (for Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following new section:

SEC. 11. CULTURAL EXPORT CONTROLS.


1) by redesignating section 208 as section 209; and
2) by inserting after section 207 the following new section:

"SEC. 11. CULTURAL EXPORT CONTROLS."

(a) in general.—

"(1) REPORT TO CONGRESS.ÐIf the President imposes export controls on any cultural commodity in order to carry out the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, after the date of such report, fails to adopt a joint resolution pursuant to subsection (b), approving or disapproving such controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of such report and if applicable, to the procedures set forth in the Senate in accordance with the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, after the date of such report, fails to adopt a joint resolution pursuant to subsection (b), approving or disapproving such controls, then such controls shall remain in effect for the period specified in the report, or until terminated by the President, whichever occurs first. If Congress, within 60 days after the date of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

(b) joint resolution.—

"(1) in general.—For purposes of this subsection, the term ‘joint resolution’ means only a joint resolution the matter after the resolution of the preceding sentence, on which such resolution was reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in the Senate in accordance with the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, after the date of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

(2) application of paragraph (1) ÐThe provisions of paragraph (1) and subsection (b) shall not apply to export controls—

(A) which are extended under this Act if the controls, when imposed, were approved by Congress under paragraph (1) and subsection (b); or

(B) which are imposed with respect to a country as part of the prohibition or curtailment of all exports to that country.

(c) compensation.—

"(1) IN GENERAL.—For purposes of this section, the term ‘joint resolution’ means only a joint resolution the matter after the resolution of the preceding sentence, on which such resolution was reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in the Senate in accordance with the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, after the date of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

(d) joint resolution.—

"(1) in general.—For purposes of this subsection, the term ‘joint resolution’ means only a joint resolution the matter after the resolution of the preceding sentence, on which such resolution was reported or discharged pursuant to the provisions of this subsection, it shall be in order for the Committee on Rules of the House of Representatives to present for consideration a resolution of the House of Representatives providing for the immediate consideration of a joint resolution under this subsection which may be similar, if applicable, to the procedures set forth in the Senate in accordance with the provisions of this Act, the President shall immediately transmit a report on such action to Congress, setting forth the reasons for the controls in detail and specifying the period of time, which may not exceed 1 year, that the controls are proposed to be in effect. If Congress, after the date of such report, fails to adopt a joint resolution approving such controls, then such controls shall cease to be effective upon the expiration of that 60-day period.

HUTCHISON AMENDMENT NO. 3305

Mr. GREGG (for Mrs. HUTCHISON) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 101, line 17, insert after the period "Provided. That of this amount, $1,400,000 shall be available for Student Incentive Payments."

DORGAN (AND CONRAD) AMENDMENT NO. 3306

Mr. GREGG (for Mr. DORGAN for himself and Mr. CONRAD) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title VI, insert the following:

"(d) REPORT.ÐNot later than 6 months after the date of enactment of this Act, the United States Trade Representative shall report to Congress on the results of the investigation conducted pursuant to this section.

(e) DEFINITION OF GRAIN.—For purposes of this section, the term "Canadian grain" means wheat, barley, or durum wheat produced in Canada and the United States durum wheat industry, spring wheat, barley, or durum wheat industries; and

TORRICELLI AMENDMENT NO. 3307

Mr. GREGG (for Mr. TORRICELLI) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 135, between lines 11 and 12, insert the following:

"SEC. 620. (a) in general.—Section 331 of the Communications Act of 1934 (47 U.S.C. 331) is amended by adding at the end the following:

"(c) FM TRANSLATOR STATIONS.Ð(1) It may be the policy of the Commission in such case in which the licensee of an existing FM translator station operating in the commercial FM band is licensed to a county (or to a county with a population of 700,000 or more persons, is not an integral part of a larger municipal entity, and lacks a commercial FM radio station licensed to the county (or to any community within such county), to extend to the licensee—

"(A) authority for the origination of limited local programming through the translator station on a primary basis but only if the licensee abides in such programming by all..."
rules, regulations, and policies of the Commission regarding program material, content, schedule, and public service obligations otherwise applicable to commercial FM radio stations.

"(B) authority to operate the station (either omnidirectionally or directionally, with facilities equivalent to those of a station operating with effective radiated power of less than 100 watts and maximum antenna height above average terrain of 100 meters) if

(i) the station is not located within 320 kilometers (approximately 199 miles) of the United States border with Canada or with Mexico;

(ii) the station provides full service FM stations operating on co-channel and first adjacent channels protection from interference rules and regulations of the Commission applicable to full service FM stations; and

(iii) the station complies with any other rules, regulations, or policies of the Commission applicable to FM translator stations that are not inconsistent with the provisions of this subparagraph.

(2) Notwithstanding any rules, regulations, or policies of the Commission applicable to FM translator stations, a station operated under the authority of paragraph (1)(B)

(A) may accept or receive any amount of theoretical interference from any full service FM station;

(B) may be deemed to comply in such operation with any intermediate frequency (IF) protection requirements if the station's effective radiated power in the pertinent direction is less than 100 watts;

(C) may not be required to provide protection in such operation to any other FM station operating on 2nd or 3rd adjacent channels;

(D) may utilize transmission facilities located in the county to which the station is licensed or in which the station's community of license is located; and

(E) may utilize a directional antenna in such operation to the extent that such use is necessary to assure provision of maximum possible service to the residents of the county in which the station is licensed or in which the station's community of license is located.

(3)(A) A licensee may exercise the authority provided under paragraph (1)(A) immediately upon written notification to the Commission of its intent to exercise such authority.

(B)(i) A licensee may submit to the Commission an application to exercise the authority provided under paragraph (1)(B). The Commission may treat the application as an application for a minor change to the license to which the application applies.

(ii) A licensee may exercise the authority provided under paragraph (1)(B) upon the granting of the application to exercise the authority under paragraph (3)(A).

(b) CONFORMING AMENDMENT.—The section heading of that section is amended to read as follows: "SEC. 33. VERY HIGH FREQUENCY STATIONS AND AM AND FM RADIO STATIONS.

(c) RENEWAL OF CERTAIN LICENSES.—(1) Notwithstanding any other provision of law, the Federal Communications Commission may renew the license of an FM translator station the licensee of which is exercising authority under subparagraph (A) of section 331(c)(1) of the Communications Act of 1934, as added by subsection (a), upon application for renewal of such license filed after the date of enactment of this Act, if the Commission determines that the public interest, convenience, and necessity would be served by the renewal of the license.

(2) If the Commission determines under paragraph (1) that the public interest, convenience, and necessity would not be served by the renewal of a license, the Commission shall provide a notice that the decision not to renew the license becomes final, provide for the filing of applications for licenses for full service to place the FM translator service covered by the license not to be renewed.

ABRAHAM (AND LEVIN) AMENDMENT NO. 3308

Mr. GREGG (for Mr. ABRAHAM for himself and Mr. LEVIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2. SEDIMENT CONTROL STUDY.

Of the amounts made available under this Act to the National Oceanic and Atmospheric Administration for operations, research, and facilities that are used for ocean and Great Lakes programs, $50,000 shall be used for a study of sediment control at Grand Marais, Michigan.

BROWNBACK (AND INHOFE) AMENDMENT NO. 3309

Mr. GREGG (for Mr. BROWNBACK for himself and Mr. INHOFE) proposed an amendment to the bill, S. 2260, supra; as follows:

(a) In general.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1229b(d)(1)) is amended by adding at the end the following:

"EB" in subsection (c)(2), by striking "201(b) or a special" and inserting "201(b), an alien who qualifies for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a special"; and

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to aliens for adjustment of status pending on or after the date of the enactment of this Act.

SEC. 3. REMOVING BARRIERS TO CANCELLATION OF REMOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) IN GENERAL.—Except as provided in subparagraph (B), for purposes of this section, any period of continuous residence or continuous physical presence in the United States shall be deemed to end when the alien is served a notice to appear under section 239a or when the alien has committed an offense referred to in section 222a(2) that renders the alien inadmissible to the United States under section 222a(2) or removable from the United States under section 222a(4), whichever is earlier.

(b) SPECIAL RULE FOR BATTERED SPOUSE OR CHILD.—For purposes of subsection (b)(2), the service of a notice to appear referred to in subparagraph (A) shall be deemed to end any period of continuous physical presence in the United States.

(c) Aliens whose removal is canceled under subsection (b)(2).

"AT the end of the bill, add the following:

TITLE —VAWA RESTORATION ACT

SEC. 1. SHORT TITLE.

This Act may be cited as the "VAWA Restoration Act."
(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if contained in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 387).
(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR SPOUSES OR CHILDREN.—

(b) REMOVAL PROCEEDINGS.—(a) IN GENERAL.—Subparagraph (C) of section 203(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(1) by striking the subparagraph heading and inserting "(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN"; and

(2) by adding at the end the following:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.ÐThere is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Attorney General or by a copy of the self-petition that will be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.";

(b) DEPORTATION PROCEEDINGS.—(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR VICTIMS OF DOMESTIC VIOLENCE.—

(a) IN GENERAL.—Part T of title 42, United States Code (as so in effect) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(b) CONGRESSIONAL RECORD — SENATE

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CONGRESSIONAL RECORD — SENATE

S.940

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if contained in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 387).
(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR SPOUSES OR CHILDREN.—

(b) REMOVAL PROCEEDINGS.—(a) IN GENERAL.—Subparagraph (C) of section 203(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(1) by striking the subparagraph heading and inserting "(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN"; and

(2) by adding at the end the following:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.ÐThere is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.";

(b) DEPORTATION PROCEEDINGS.—(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR VICTIMS OF DOMESTIC VIOLENCE.—

(a) IN GENERAL.—Part T of title 42, United States Code (as so in effect) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(b) CONGRESSIONAL RECORD — SENATE

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CONGRESSIONAL RECORD — SENATE

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(b) REMOVAL PROCEEDINGS.—(a) IN GENERAL.—Subparagraph (C) of section 203(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(1) by striking the subparagraph heading and inserting "(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN"; and

(2) by adding at the end the following:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.ÐThere is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.";

(b) DEPORTATION PROCEEDINGS.—(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR VICTIMS OF DOMESTIC VIOLENCE.—

(a) IN GENERAL.—Part T of title 42, United States Code (as so in effect) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(a) AMENDMENT.—Subparagraph (C) of section 240(c)(6)(C) is amended by adding at the end the following:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.ÐThere is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.";

(b) CONGRESSIONAL RECORD — SENATE

JULY 23, 1998

S.940

CONGRESSIONAL RECORD — SENATE

S.940

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if contained in the enactment of section 304 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208; 110 Stat. 387).
(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR SPOUSES OR CHILDREN.—

(b) REMOVAL PROCEEDINGS.—(a) IN GENERAL.—Subparagraph (C) of section 203(c)(5) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) (as amended by section 203 of the Nicaraguan Adjustment and Central American Relief Act) is amended—

(1) by striking the subparagraph heading and inserting "(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN"; and

(2) by adding at the end the following:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.ÐThere is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.";

(b) DEPORTATION PROCEEDINGS.—(b) MODIFICATION OF CERTAIN TRANSITION RULES FOR VICTIMS OF DOMESTIC VIOLENCE.—

(a) IN GENERAL.—Part T of title 42, United States Code (as so in effect) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.

(a) AMENDMENT.—Subparagraph (C) of section 240(c)(6)(C) is amended by adding at the end the following:

"(C) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR BATTERED SPOUSES AND CHILDREN.ÐThere is no time limit on the filing of a motion to reopen, and the deadline specified in subsection (b)(5)(C) does not apply, if the basis of the motion to reopen is accompanied by a statement by the alien that the motion to reopen is to be filed with the Immigration and Naturalization Service upon the granting of the motion to reopen.";
Mr. GREGG (for Mr. Lautenberg) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place in title II, insert the following:

SEC. 2. NONPOINT POLLUTION CONTROL.

(a) In General.—In addition to the amounts appropriated in the National Oceans and Atmospheric Administration under this Act, $3,000,000 shall be made available to the Administration for the nonpoint pollution control program of the Coastal Zone Management program of the Administration.

(b) Pro Rata Reductions.—Notwithstanding any other provision of law, a pro rata reduction shall be made in each program in the Department of Commerce funded under this Act in such manner as to result in an aggregate reduction in the amount of funds provided to those programs of $3,000,000.

LAUTENBERG (AND TORRICELLI) AMENDMENT NO. 3335

Mr. GREGG (for Mr. Lautenberg for himself and Mr. Torricelli) proposed an amendment to the bill, S. 2260, supra; as follows:

At the appropriate place, insert the following:

SEC. 5.—CHILD EXPLOITATION SENTENCING ENHANCEMENT.

(a) Definitions.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) Increased Penalties for Use of a Computer in the Sexual Abuse or Exploitation of a Child.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall:

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, coercion and enticement of a juvenile under section 2243(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1) promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(c) Increased Penalties for Pattern of Sexual Abuse or Exploitation of Children.—Pursuant to the authority granted to the United States Sentencing Commission under section 2243 of title 18, United States Code, is amended to read as follows:

"(2) upon completion of the review under paragraph (1) promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) Increased Penalties for Pattern of Sexual Abuse or Exploitation of Children.—Pursuant to the authority granted to the United States Sentencing Commission under section 2243 of title 18, United States Code, is amended to read as follows:

"(2) upon completion of the review under paragraph (1) promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(e) Repeat Offenders.—Increased Maximum Penalties for Transmission for Illegal Sexual Activity and Related Crimes.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall:

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexual exploitation, and coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1) promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement application to the offenses referred to in paragraph (1) in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(f) Repeat Offenders.—Increased Maximum Penalties for Transmission for Illegal Sexual Activity and Related Crimes.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall:

(1) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(2) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(g) Clarification of Definition of Distribution of Pornography.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(h) Increased Penalties for Pattern of Sexual Abuse or Exploitation of Children.—Pursuant to the authority granted to the United States Sentencing Commission under section 2243 of title 18, United States Code, is amended to read as follows:

"(2) upon completion of the review under paragraph (1) promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(i) Increased Penalties for Pattern of Sexual Abuse or Exploitation of Children.—Pursuant to the authority granted to the United States Sentencing Commission under section 2243 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(j) Amendment of Sentencing Guidelines.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall:

(1) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(k) Directive to the United States Sentencing Commission.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(l) Authorization for Guardians Ad Litem.—There are authorized to be appropriated to the Department of Justice, for the purpose of carrying out subsection (a), such sums as may be necessary for each of fiscal years 1998 through 2001.
(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

STEvens AMENDMENT NO. 3317
Mr. GREGG (for Mr. STEVENS) proposed an amendment to the bill, S. 2260, supra; as follows:

On page 128, line 9, strike paragraph (1);

On page 129, line 3, strike paragraph (1) and insert in lieu thereof paragraphs (2) and (3);

On page 193, line 6, strike ``(vii)'' and insert in lieu thereof ``(vi)''

(1) the Secretary of State shall, in lieu of the preceding six months to increase funding for any United Nations program without the certification required under such sixth paragraph (1) is the term defined in section 921(a) of title 18, United States Code, of which $1,500,000 shall be used to provide for the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are victims of, or witnesses to, a crime involving abuse or exploitation.

(2) PURPOSE. —The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are victims of, or witnesses to, a crime involving abuse or exploitation.

AMENDMENT NO. 3320
At the appropriate place in Title IV, insert the following new section:

SEC. 407. BAN ON EXTRADITION OR TRANSFER OF U.S. CITIZENS TO THE INTERNATIONAL CRIMINAL COURT

(a) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to extradite or otherwise transfer that citizen to the International Criminal Court described in paragraph (1), unless the third country to which extradition or transfer of a United States citizen is made available by this or any other Act may be used to extradite a United States citizen to a foreign nation that is under an obligation to extradite or otherwise transfer that citizen to the International Criminal Court.

(b) None of the funds appropriated or otherwise made available by this or any other Act may be used to extradite or otherwise transfer that citizen to the International Criminal Court.

(c) DEFINITION.—As used in this section, the term "International Criminal Court" means the court established by agreement concluded in Rome on July 17, 1998.

AMENDMENT NO. 3321
On page 100, between lines 18 and 19, insert the following new section:

SEC. 407. (a) None of the funds appropriated or otherwise made available by this Act or any other Act (including prior appropriations) may be used for—

(1) the payment of any representation in, or any contribution to (including any assessed contribution), or provision of funds, services, equipment, personnel, or other support to, the International Criminal Court established by agreement concluded in Rome on July 17, 1998;

(2) the United States proportionate share of any assessed contribution to the United Nations and any International Criminal Court that is used to provide support to the International Criminal Court described in paragraph (1), unless the Senate has given its advice and consent to ratification of the agreement as a treaty under Article II, Section 2, Clause 2 of the Constitution of the United States.

DURBIN AMENDMENT NO. 3322
Mr. GREGG (for Mr. DURBIN) proposed an amendment to the bill, S. 2260, supra; as follows:

At the end of the bill, add the following:

TITle -- NURsING RELIEF FOR DISADVANTAGED AREAS

SEC. 1. SHort TItle.

This title may be cited as the "Nursing Relief for Disadvantaged Areas Act of 1998".

SEC. 2. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES IN HEALTH PROFESSIONAL SHORTAGE AREAS. —Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "or (c)" at the end of the section following "(c)" and (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications referred to in section 101(a)(15)(H)(i), and who is in possession of a certificate of identity, issued by the Attorney General, that an unexpired attestation is on file in the United States with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(6) for the facility (as defined in section 212(m)(6) for which the alien will perform the services; or

(b) REQUIREMENTS.—Section 212(m) of the Immigration and Nationality Act (8 U.S.C. 1182(m)) is amended to read as follows:

"(m)(1) The qualifications referred to in sections 101(a)(15)(H)(i)(A) and (B) who are authorized to perform nursing services for a facility, are that the alien—

"(A) has obtained a full and unrestricted license to practice professional nursing in the country where the alien obtained nursing education or has received nursing education in the United States;

"(B) has passed an appropriate examination (recognized in regulations promulgated in consultation with the Secretary of Health and Human Services) or has a full and unrestricted license under State law to practice professional nursing in the State of intended employment; and

"(C) is fully qualified and eligible under the laws (including any temporary or interim licensing requirements which authorize the alien to be employed) governing the place of intended employment to engage in the practice of professional nursing as a registered nurse immediately upon admission to the United States and under such laws to be employed by the facility.

"(2)(A) The attestation referred to in section 212(m)(6) shall require that a facility for which an alien will perform services, is an attestation as to the following:

"(i) The facility meets all the requirements of paragraph (6) of

"(ii) The employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed.

"(iii) The alien employed by the facility will be paid the wage rate for registered nurses similarly employed by the facility.

"(iv) The facility has taken and is taking steps, reasonably possible the dependence of the facility on nonimmigrant registered nurses, or the hiring of replacement nurses, serving the needs of persons who are otherwise unable or unlikely to receive professional services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses.

"(v) The alien will not strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

"(vi) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(A), notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to the registered nurses employed at the facility through posting in conspicuous locations.

"(vii) The facility will not, at any time, employ a number of aliens issued visas or otherwise provided nonimmigrant status under this section that exceeds 33 percent of the total number of registered nurses employed by the facility.
shall conduct an investigation under this clause if there is reasonable cause to believe that a facility fails to meet conditions attested to. Subject to the time limits established in subparagraph (A)(vi), the Secretary shall apply regardless of whether an attestation is expired or unexpired at the time a complaint is filed.

"(iii) Under the case process, the Secretary shall provide, within 180 days after the date such a complaint is filed, for a determination as to whether or not a basis exists to take action described in clause (iv). If the Secretary determines that such a basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity to respond on the complaint within 60 days of the date of the determination.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and, in addition, impose such an administrative penalty, including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation (as estimated to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

"(v) In addition to the sanctions provided for under clause (iv), if the Secretary of Labor finds, after notice and opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(ii)(I) relating to payment of registered nurses at the wage rate currently being paid to registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(vi) The Secretary shall require the nonimmigrant to bear all costs of carrying out the Secretary’s duties under this subsection, but not exceeding $250.

"(B) The Secretary shall deposit in a fund established for this purpose in the Treasury of the United States the costs described in clause (i), in addition to any other funds that are available to the Secretary to cover such costs.

"(ii) The period of admission of an alien under section 101(a)(15)(H)(ii)(c) shall be 3 years.

"(iii) The number of nonimmigrant visas issued pursuant to petitions granted under section 101(a)(15)(H)(ii)(c) in each fiscal year shall not exceed 500. The number of petitions filed under subparagraph (A) within a fiscal year shall not exceed the number of nonimmigrant visas the Secretary shall make available under this paragraph.

"(A) For States with populations of less than 9,000,000, 50% of the 1990 decennial census of population, 25 petitions.

"(B) For States with populations of 9,000,000 or more, based upon the 1990 decennial census of population, 50 petitions.

"(C) If the number of visas available under this paragraph for a calendar quarter exceeds the number of qualified nonimmigrant registered nurses who are United States citizens or aliens lawfully admitted for permanent residence, the visas made available under this paragraph shall be issued without regard to the numerical limitations under subparagraphs (A) and (B) of this paragraph during the remainder of the calendar quarter.

"(9) A facility that has filed a petition under subparagraph (A)(ii)(I) may employ a nonimmigrant to perform nursing services for the facility—

"(A) shall provide the nonimmigrant a wage rate and working conditions commensurate with those of nurses similarly employed by the facility;

"(B) shall require the nonimmigrant to work hours commensurate with those of nurses similarly employed by the facility; and

"(C) shall not interfere with the right of the nonimmigrant to join or organize or maintain a labor union.

"(10) For purposes of this subsection and section 101(a)(15)(H)(ii)(c), the term ‘facility’ means a subsection (d) hospital (as defined in section 1888(d)(1)(B) of the Social Security Act (42 U.S.C. 1395w(d)(1)(B))) that meets the following requirements:

"(A) As of March 31, 1997, the hospital was located in a health professional shortage area.

"(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

"(i) the hospital has not had less than 190 licensed acute care bed inpatient days for any calendar year during the 4-year period ending on the date that the petition is filed for under clause (iv), if the Secretary of Labor finds, after notice and opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(ii)(I) relating to payment of registered nurses at the wage rate currently being paid to registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) the number of the hospital’s inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital’s acute care inpatient days for such period described in section 1886(d)(1)(B).

"(iii) the number of the hospital’s inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under title XIX of the Social Security Act approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital’s acute care inpatient days for such period described in section 1886(d)(1)(B).


"(C) If the number of nonimmigrant nurses similarly employed by the facility.


"(E)(i) The Secretary of Labor shall keep a record of the alien’s name and address and any such alien is employed by the facility.

"(ii) The Secretary shall give notice of such a complaint to the Attorney General and an opportunity for a hearing on the complaint.

"(iii) Under such process, the Secretary shall make a finding described in clause (iv). If the Secretary finds, after notice and opportunity for a hearing that the facility has violated the condition attested to under subparagraph (A)(ii)(I) relating to payment of registered nurses at the wage rate currently being paid to registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(iv) If the Secretary of Labor finds, after notice and opportunity for a hearing, that a facility (for which an attestation is made) has failed to meet a condition attested to or that there was a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and, in addition, impose such an administrative penalty, including civil monetary penalties in an amount not to exceed $1,000 per nurse per violation, with the total penalty not to exceed $10,000 per violation (as estimated to be appropriate. Upon receipt of such notice, the Attorney General shall not approve petitions filed with respect to a facility during a period of at least one year for nurses to be employed by the facility.

"(B) Based on its settled cost report filed under title XVIII of the Social Security Act for its costs reporting period beginning during fiscal year 1994—

"(i) the hospital has not had less than 190 licensed acute care bed inpatient days for any calendar year during the 4-year period ending on the date that the petition is filed for under clause (iv), if the Secretary of Labor finds, after notice and opportunity for a hearing that, a facility has violated the condition attested to under subparagraph (A)(ii)(I) relating to payment of registered nurses at the wage rate currently being paid to registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere.

"(ii) the number of the hospital’s inpatient days for such period which were made up of patients who (for such days) were entitled to benefits under part A of such title is not less than 35 percent of the total number of such hospital’s acute care inpatient days for such period described in section 1886(d)(1)(B).

"(iii) the number of the hospital’s inpatient days for such period which were made up of patients who (for such days) were eligible for medical assistance under title XIX of the Social Security Act approved under title XIX of the Social Security Act, is not less than 28 percent of the total number of such hospital’s acute care inpatient days for such period described in section 1886(d)(1)(B).


"(E) LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 4-YEAR PERIOD.—The amendments made by this section shall apply to classification petitions filed for non-immigrant status only during the 4-year period beginning on the date that interim or final regulation are first promulgated under subsection (d).
On page 44 of the bill, insert at the beginning of line 1 the following: “New York City NY Midtown west ferry terminal.”

On page 51 of the bill, insert after line 19 the following:

“for the Fiscal Year ending September 30, 2004.”

On page 86 of the bill, strike all of section 336 (lines 16-24 and lines 1-10). On page 98 of the bill, insert the following:

“(3) $46,131,000” and insert “$55,131,000.”

On page 28 of the bill, amend the figure in line 5 to read “$5,000,000.”

None of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or requests for financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

On page 92 of the bill, after line 25, insert the following:

On page 12, after line 19, amend the “(3)” subsection number to read “(4).”

On page 90 of the bill, in line 1, after the semicolon insert the following:

“$3,500,000 is provided for the Providence-Boston commuter rail project.”

On page 92 of the bill, after line 25, insert the following:

Sec. 311. Item 1132 in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 298), relating to Mississippi, is amended by striking “Pirate Cove” and inserting “Piraeus and 4-lane connector to Mississippi Highway 468.”

On page 78 of the bill, strike lines 8-15, and insert the following:

Section 232. Notice of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or requests for financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

INTERNATIONAL MONETARY FUND APPROPRIATIONS ACT OF 1998

MURKOWSKI AMENDMENT NO. 3325

Mr. MURKOWSKI proposed an amendment to the bill (S. 2334) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; as follows:

SEC. 1. ENVIRONMENTAL POLICY AND PROCEDURES.

(a) In General. Section 11(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635-5(a)) is amended—

(1) in paragraph (2), by striking the period at the end and inserting “export financing, and related programs for the fiscal year ending September 30, 1999, and for other purposes; as follows.”

(b) Section 322. Notice of the funds in this or any other Act may be used to compel, direct or require agencies of the Department of Transportation in their own construction contract awards, or requests for financial assistance for construction projects under this Act, to use a project labor agreement on any project, nor to preclude use of a project labor agreement in such circumstances.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

DEWINE (AND OTHERS) AMENDMENT NO. 3327

Mr. DeWINE (for himself, Mr. Coverdell, Mr. Graham, Mr. Bond, Mr. Grassley, and Mr. Faircloth) proposed an amendment to the bill, S. 2307, supra; as follows:

Beginning on page 8 of the bill, in line 17 after the colon insert: Provided further, that not less than $2,000,000 shall be available to support restoration of enhanced counter-narcotics operations around the island of Hispaniola.

On page 5 of the bill, in line 4, strike “$426,173,000” and insert “$453,648,000.”

On page 9 of the bill, in line 2, strike “$386,693,000” and insert “$426,173,000.”

On page 9 of the bill, in line 4, strike “$213,380,000” and insert “$254,563,000.”

On page 9 of the bill, in line 7, strike “$64,131,000” and insert “$65,131,000.”

On page 9 of the bill, in line 9, strike “$53,380,000” and insert “$54,785,000.”

On page 77 of the bill, in line 15, strike “$10,500,000” and insert “$17,247,000.”
Mr. SHELBY (for Mr. McCain) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert:

SEC. . The change in definition for Amtrak capital expenses shall not affect the legal characteristics of capital and operating expenditures for purposes of Amtrak's requirement to eliminate the use of appropriated funds for operating expenses according to P.L. 92-404. No funds appropriated for Amtrak in this Act shall be used to pay for any wage, salary, or benefit increases that are a result of any agreement entered into after October 1, 1997; Provided further, That nothing in this Act shall affect Amtrak's legal requirements to maintain its current system of accounting under Generally Accepted Accounting Principles; Provided further, That no later than 30 days after the end of each quarter beginning with the first quarter in fiscal year 1999, Amtrak shall submit to the House and Senate Committees on Appropriations, and the Senate Committee on Commerce, Science, and Transportation, a reporting of specific expenditures for preventative maintenance, labor, and other operating expenses from amounts made available under this Act, and Amtrak's estimate of the amounts expected to be expended for such expenses for the remainder of the fiscal year.

Mr. SHELBY (for Mr. Specter for himself and Mr. Santorum) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . Section 3 of the Act of July 17, 1952 (66 Stat. 746, chapter 921), and section 3 of the Act of July 17, 1952 (66 Stat. 571, chapter 902), are each amended in the proviso—

(1) by striking "That" and all that follows through and including "the commission may collect";

(2) by striking ":, shall cease" and all that follows through the period at the end and inserting "the period specified in subsection (a)";

On page 22 of the bill, in line 1, strike "State of Michigan," and insert "Oakland County, Ml.

On page 89 of the bill, in line 24, before the figure "2,700,000" insert the following: "$200,000 is provided for the Southeast Michigan commuter rail viability study; $2,000,000 is provided for the major investment analysis of Honolulu transit alternatives;"

On page 92 of the bill, after line 25, insert the following:

SEC. . Section 122(m) of Public Law 105-178 is amended (1) in the subsection heading by inserting ": Idaho and West Virginia" after "Minnesota"; and (2) by inserting "or the States of Idaho or West Virginia" after "Minnesota".

In amendment No. 3324, in line 10, strike "determine the feasibility or providing reliable access connecting King Cove and Cold Bay, Alaska" and insert the following: "study rural access issues in Alaska."

Mr. SHELBY (for Mr. Johnson, for himself and Mr. Kohl, and Mr. Bond) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 30, after line 11, before the period insert the following: Provided further, That, of the funds made available under Sec. 5308, up to $10 million may be used for the projects that include payments for the incremental costs of biodiesel fuels: Provided further, That the incremental costs shall be limited to the cost difference between the cost of alternative fuels and their petroleum-based alternates".

Mr. SHELBY (for Mr. Durbin for himself and Mr. Lautenberg) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place, insert the following:

SEC. . PROHIBITIONS AGAINST SMOKING ON SCHEDULED FLIGHTS.

(a) In General.—Section 41706 of title 49, United States Code, is amended to read as follows:

§ 41706. Prohibitions against smoking on scheduled flights

(a) Smoking prohibition in intrastate and interstate air transportation.—An individual may not smoke in an aircraft on a scheduled airline flight segment in intrastate air transportation or interstate air transportation.

(b) Smoking prohibition in foreign air transportation.—The Secretary of Transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

(c) Limitation on applicability.—With respect to an aircraft operated by a foreign air carrier, the smoking prohibitions contained in subsections (a) and (b) shall apply only to the passenger cabin and lavatory of the aircraft. If a foreign government objects to the application of subsection (b) on the basis that it is an extraterritorial application of the laws of the United States, the Secretary is authorized to waive the application of subsection (b) to a foreign air carrier licensed by that foreign government. The Secretary shall prescribe regulations necessary to ensure that each air transportation shall require all air carriers and foreign air carriers to prohibit, on and after the 120th day following the date of the enactment of this section, smoking in any aircraft on a scheduled airline flight segment within the United States or between a place in the United States and a place outside the United States.

SEC. . REIMBURSEMENT FOR SALARIES AND EXPENSES.

The National Transportation Safety Board shall reimburse the State of New York and local counties in New York during the period beginning on June 12, 1997, and ending on September 30, 1999, an aggregate amount equal to $6,059,000 for costs (including salaries and expenses) incurred in connection with the crash of TWA Flight 800.

Mr. SHRECKE (for Mr. D'Amato) proposed an amendment to the bill, S. 2307, supra; as follows:

At the appropriate place in title III, insert the following:

SEC. . HAZARDOUS MATERIALS.

In the case of a state that, as of the date of enactment of this Act, has in force and effect State hazardous material transportation laws that are inconsistent with federal hazardous material transportation laws with respect to intrastate transportation of agricultural production materials for transportation from agricultural retailer to farm, farm to farm, and from farm to agricultural retailer, within a 100 mile radius, such inconsistent laws may remain in force and effect for fiscal year 1999 only.

Mr. SHELBY (for Mr. Lautenberg, for himself and Mr. Kerry) proposed an amendment to the bill, S. 2307, supra; as follows:

On page 79 of the bill, in line 21 before the period, insert: "Provided further, That the Secretary, acting through the Administrator of the Federal Aviation Administration, shall by January 1, 1999, take such actions as may be necessary to ensure that each air carrier (as that term is defined in section 40102 of title 49 U.S.C.) prominently displays on every passenger ticket sold by any means or mechanism a statement that reflects the national average per passenger general fund subsidy based on the fiscal year 1997 general fund appropriation from the Federal Government to the Federal Aviation Administration; Provided further that the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall take such actions as may be necessary to ensure the placement of signs, on strategic Federal-aid highways (as that term is defined in section 101 of title 23, U.S.C.) that states that, during fiscal year 1997, the Federal Government provided a general fund appropriation at a level verified by the Department of Transportation, for the subsidy of State and local highway construction and maintenance."
The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 2:30 p.m. to hold a business meeting. The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 9:30 a.m. on S. 2258—Mohammad Ali Boxing Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 23, 1998 at 8:00 a.m. to conduct a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE CONCURRENT RESOLUTION 105

Mr. ABRAHAM. Mr. President, I rise to co-sponsor S. Con. Res. 105, a resolution which I hope will bring justice to the many suffering people of the former Yugoslavia. Over a decade now Serbian leader Slobodan Milosevic has executed his policies of hatred, policies which have led to oppression and murder. And I am sorry to say that Milosevic's brutal assaults against the people of Bosnia and Croatia have gone unpunished.

Milosevic now seeks to extend his reign of terror over greater Serbia. His efforts already have destroyed the peace, security, and very lives of the people of Kosovo. He has turned Kosovo, once an independent state within Yugoslavia, into a virtual prison for non-Serbs. He has driven Kosovo's native Albanians, who have lived in the Balkans longer than any other ethnic group and who comprise 90 percent of the region's population, to flee the area out of fear for their lives and the lives of their families.

Mr. President, I believe it is important for us to keep in mind that, while the United States continues to offer peaceful and diplomatic support to the victims of Milosevic's campaign of terror, Serbian leaders continue their heinous policies. I am convinced that we must send a strong signal to Milosevic...
and his cronies in order to stop the vio-
ence and oppression they are inflicting
on the people of Kosovo.

Mr. President, I believe that we in
the United States, the birthplace and
homeland of freedom, have a respon-
sibility to help these people and his fel-
low perpetrators to the Hague and
make them answer for their crimes. It
grieves me that so many people in the
Balkans have suffered from Milosevic's
policies of racial cleansing. I hope that
a trial will end the suffering of count-
less victims and that Milosevic's tria-
that Milosevic's trial will send a mes-
sage to other dictators that crimes
against humanity will not be tolerated
by the world community.

I urge my colleagues to support this
important legislation.

CONTEMPORARY AMERICAN THEA-
RE FESTIVAL AND THE TOWN
HALL MEETING ON THE PER-
FORMING ARTS AND RACE

- Mr. ROCKEFELLER. Mr. President,
in June 1997, President Clinton an-
ounced his Initiative on Race, One
America in the 21st Century. His Ini-
tiative was created to encourage all
Americans to work together in univer-
sal dialogue, understanding and dealing with our racial
differences. In the course of the past
year, President Clinton has traveled
around the country hosting several
major events to work towards these
goals. One of these events was a na-
A Town Hall Meeting, but you can see the
wealth of communication that tran-
sioned on the subject in just a few short
hours. Imagine if a community in
our state or a national event to foster and promote honesty and under-
standing of our racial differences.

Mr. SMITH of New Hampshire. Mr.
President, I am proud of my fellow West
Virginians' efforts and success in an-
swering President Clinton's challenge
to work towards living as One America
in the 21st Century. And I congratulate
Ed Herendeen, the producing director of CATF, and Cherylene Lee, the play-
wright of this commissioned work, for
bringing Carry the Tiger to the Mount-
tain to West Virginia for its world pre-
eminent premiere. Mr. President, I am
soar. Let us mark the passing of this
dreamer to whatever heights they may
dream. His motivation and dedication to
the American people served to encourage all
great leaders not with sadness, but with
gratitude and deep appreciation for
being such a valiant American.

TRIBUTE TO ALAN SHEPARD: NEW
HAMPshire NATIVE AND FIRST
AMERICAN TO FLY IN SPACE

- Mr. SMITH of New Hampshire. Mr.
President, I rise today to pay tribute to
Alan Shepard, the first American to
fly in space, and a native of Derry, New
Hampshire. On Tuesday, this American
hero fell victim to leukemia at the age
of 74, and leaves behind his widow, Lou-
ise, two daughters and six grand-
children.

As the first American to fly in space,
Alan Shepard was a pioneer for manned
space exploration as we know it. On
May 5, 1961, at a time when the Amer-
ican space program was similar to the
Russian space program, Shepard made the first orbital flight, a 2
to 14.

This trip allowed Shepard to become
the fifth of only twelve Americans ever
to walk on the moon, and the only man
to hit golf balls playfully on the lunar
surface.

In addition to his space endeavors,
Shepard headed NASA's astronaut off-

ce in the years between his two
flights, and he began investing in
banks, oil wells, quarter horses and
real estate. Shepard was also a Navy
test pilot, sacrificing a great deal for
the future of his country. He retired
from the space agency and from the
Navy as a rear admiral in 1974, in pur-
suit of many and varied interests.

Derry, New Hampshire, the town of his
birth. His motivation and dedication to
the American space program and the
American people serve to encourage all
to welcome challenges and follow
dreams to whatever heights they may
reach. For us mark this great leader not with sadness, but with
greatness the confidence to continue pursu-
ishing him as an American hero.

Shepard was also one of the seven
original Mercury astronauts, NASA's
first space pioneers.

On January 31, 1971, Shepard re-
turned to space for his second and last
flight. These traits are evident in the

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to hit golf balls playfully on the lunar
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Mr. Fox has headed Raytheon's Con-

sideration of the arts and race to fur-
nish our vision of One America.

The afternoon discussion brought forth many ideas and questions in re-
gard to the arts and race. The panelists
discussed the role of the performing
arts in encouraging appreciation of
minorities as stereotypes can further inten-
sify racial misunderstandings,
and how if we as a society would think of
culture more than race, then per-
haps we could succeed more. As George
Takei mentioned, the performing arts
are a "forum for understanding and
communication." Yet so much depends
on who does the articulating and who
has access to the art being presented.
In its most truthful essence, the arts
can allow "touch each other," as Molly Smith of Arena Stage
pointed out. And if we can "touch each
other" or understand each other, then
we can begin easing the tensions that
separate us.

These are but a few of the ideas dis-
cussed in Shepherdstown at the Town
Hall Meeting, but you can see the
wealth of communication that tran-
sioned on the subject in just a few short
hours. Imagine if a community in
our state or a national event to foster and promote honesty and under-
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Ed Herendeen, the producing director of CATF, and Cherylene Lee, the play-
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goals. One of these events was a na-

The Contemporary American Theater
Festival (CATF), located in
Shepherdstown, West Virginia,
commissioned a play on Asian racism enti-
tiled Carry the Tiger to the Mountain,
and Governor Cecil Underwood formed
his own Initiative on Race, One West
Virginia. Together, they planned a
Town Hall Meeting on the Performing
Arts and Race which was held this past
weekend in Shepherdstown and will be
broadcast by West Virginia Public Tele-
vision this coming Thursday and Sun-

day.

Over 300 people attended the after-
noon performance of Tiger and the
Town Hall Meeting which followed and
was narrated by Kwame Holman, of
The Newshour with Jim Lehrer. The
panelists for the event included cho-
reographer Garth Fagan, who recently
won a Tony Award for The Lion King;
Angelo Oh, a member of the President's
Advisory Board on Race; Molly Smith,
the Artistic Director of Arena Stage;
George Takei, a television and theater
actor from Star Trek; Helen Zia, con-
tributing editor to Ms. Magazine;
Christian McBride, a jazz artist and
composer; Abel Lopez, president of
Non-Traditional Casting Project; Dr.
Simon Perry, also a faculty member at
Marshall University; and Liz Lerman,
artistic director of Dance Exchange.
The audience included local commu-

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ican space program was similar to the
Russian space program, Shepard made the first orbital flight, a 15-minute sub-
orbit flight, spending five of those
minutes in space, and forever distin-

TRIBUTE TO CHARLES L. FOX,
BUSINESS & MILITARY LEADER,
PATRIOT AND SERVANT OF THE
UNITED STATES OF AMERICA

Mr. SMITH of New Hampshire. Mr.
President, it is with a great deal of per-
sonal pleasure that I recognize the
major accomplishments of an individ-
ual who dedicated his career to serving
the interests of our country by
strengthening our national security for
more than 30 years.

On August 31, 1998, Mr. Charles L.
Fox will retire as Senior Vice Presi-
dent, Congressional Relations for the
Raytheon Company. Under Chuck's
leadership and dedication, Raytheon
has contributed tremendously to the
effectiveness of our national security.

Mr. Fox has headed Raytheon’s Con-
gressional Relations Office since May
1995. In this capacity he was responsible for ensuring that issues and programs of interest to Raytheon in supporting national security requirements were communicated to members and staff of Congress in an effective manner. I can tell you I know of no one more professional than Mr. Fox. In all his dealings with the Congress, he was a true professional, dedicated to ensuring national security interests, and the security of our country were always well served.

Prior to joining Raytheon, Chuck served a distinguished career of more than twenty seven years in the United States Air Force, retiring as a Colonel. He served in a variety of staff, operations and command positions around the world. He served as both a base and wing commander, as well as the Chief of Staff of the Pacific Air Forces. In the two years prior to his retirement from the Air Force, Mr. Fox was the Deputy Director of Legislative Liaison for the Secretary of the Air Force in the Pentagon. He was responsible for managing all Congressional actions for the Secretary of the Air Force and the Air Force Chief of Staff, and supervised a staff of 90 personnel.

Mr. Fox holds a Bachelor of Arts degree from Seattle University with a major in Political Science. He received a Master of Arts degree in International Relations from the University of Washington.

Chuck and his wife Marilyn will reside in Charleston, South Carolina. Mr. Fox has two married daughters, Rachel and Sarah.

Mr. President, fellow colleagues, please join me in paying tribute to the exemplary accomplishments of Mr. Charles L. Fox, for a lifetime of achievements as a business and military leader, patriot and servant of the United States of America.

RETIREE OF MR. CLARK BURRUS

Mr. MOSLEY-BRAUN. Mr. President, I would like to take a few moments to honor Mr. Clark Burrus, a distinguished professional and a citizen par excellence. Mr. Burrus has recently announced his retirement from First Chicago Capital Markets, Inc. Although it was with great sadness that I heard of Mr. Burrus' retirement, this milestone provides an opportune moment to praise him for his long record of achievements. He has served Chicago and our nation in so many different ways that it is almost impossible to enumerate them all.

Mr. Burrus was born in Chicago and attended Englewood High School on the city's South side. Following high school, Mr. Burrus matriculated at Texas State University where he excelled in both academics and athletics. After Texas, Mr. Burrus entered Texas State University, where he received his first degree in Accounting and a Bachelor of Science Degree in Accounting.

Mr. Burrus began his five decades of service to the City of Chicago during the administration of Mayor Martin Kenneley, and continued to serve under Mayors Richard J. Daley, Michael Bilandic and Jane Byrne. The hard work and dedication of Mr. Burrus were recognized when the late Mayor Richard J. Daley named him City Comptroller in 1973. As City Comptroller, Mr. Burrus was the Chief Fiscal Officer of the city and supervised the Department of Finance. Under his able guidance, the status of city-issued bonds climbed to its first Double-A rating. Mr. Burrus is also credited with engineering the low-interest rate mortgage revenue bond program of Chicago, the first such program in the United States.

In 1979, Mr. Burrus left public life and joined the First Bank of Chicago as a Senior Vice President in the Asset and Liability Management Department. Almost twenty years later, Mr. Burrus has risen to the position of Vice Chairman of First Chicago Capital Markets, Inc., a subsidiary of First Chicago NBD Corporation. Mr. Burrus serves as the head of the Public Banking Department. The departments under the supervision of Mr. Burrus provide critical commercial banking services to a wide array of fields, including health care, higher education, governmental and cultural institutions.

Although he left public life in 1979, Mr. Burrus' commitment to the welfare of his hometown and fellow citizens did not end. Mr. Burrus has since served as Chairman of the Board of the Chicago Transit Authority and of its Deferred Compensation Committee. Additionally, Mr. Burrus was a board member of the Regional Transportation Authority, a member of its Strategic Planning Committee, and a member of the Coordinating Committee. Recently, Mr. Burrus was appointed to the Cook County Deferred Compensation Committee. He is also a current member and past chairman of the Chicago Transit Authority's Pension Board of Trustees, and has served as a trustee of five other public pension funds. In addition, Mr. Burrus presently serves on a remarkable twenty eight boards and commissions. I never cease to be amazed at how well Clark Burrus is able to perform so many professional and civic duties simultaneously.

Mr. President, the civic service and public achievements of Mr. Clark Burrus are of breathtaking dimensions. Indeed, they serve as an enduring testament of his passionate commitment to the betterment of his community. As Mr. Burrus retires to private life, he leaves behind a record of excellence that will long be appreciated, and is a model for all generations to follow. I wish him Godspeed and hope that his years of retirement will be as enriching as his years of public service.

CONGRATULATING KATRINA RUIZ AND MARCO CAKNESELLA

Mr. MACK. Mr. President, I rise today to recognize and congratulate Katrina Ruiz and Marco Caknesella of Miami, Florida. Katrina and Marco were selected as national finalists in the Do the Write Thing Challenge Program sponsored by the National Campaign to Stop Violence.

Katrina, Marco and hundreds of other middle school students in Miami took part in the Do the Write Thing Challenge Program this year. The Do the Write Thing Challenge Program asks middle school students in 12 cities across the United States to provide a written commitment to reducing violence in their lives by submitting a written answer to the question: 'What can I do about the violence in my life?'

It is always a pleasure to hear about programs, like the Do the Write Thing Challenge Program, which encourage young people to begin to think about the ways that they can have an impact upon the problems which confront their community. I am confident that Katrina, Marco and the thousands of other young people across the nation who participated in the program will set a positive example for their peers as they fulfill their written commitment to reduce violence in their own lives.

I commend Katrina Ruiz and Marco Caknesella for their selection for this high honor and wish them all the best for their continued success.

IMPORRANCE OF ACCURATE ECONOMIC STATISTICS

Mr. DOMENICI. Mr. President, I want to discuss a very important issue today that often does not get the attention that it deserves—the need for accurate economic statistics.

Policymakers rely on statistics to guide them in their decision-making process. For instance, the Federal Reserve sets interest rates based on the reported level of economic activity and inflation; Congress and the Administration craft multi-year budget proposals using an economic baseline that is built upon current data; we examine the effectiveness of different tax and fiscal reforms by their effect on measured savings rates.

In all cases, we take for granted that these building block statistics give us a reliable portrayal of current economic conditions. We seldom consider just how difficult it is for many economists to produce them or realize that it is getting harder to do so as our economy continues to evolve.

We can no longer afford to measure economic conditions by how many widgets roll off an assembly line. We have to put a value on financial and high-tech services. Increasingly, we will also need to be tracking...
internet commerce. It is imperative that our data collection methods keep pace with our rapidly changing economy. Our statistical agencies employ exceptionally talented people who are working hard to ensure that this happens.

In the last several years, one can point to many notable data enhancements from our statistical agencies. For instance, BLS has worked hard to improve the accuracy of the Consumer Price Index. BEA has implemented “chain-type” measures for GDP which provide a more up to date reading of the economy.

Despite such progress, more needs to be done. Growth is booming in the service sector, where we have the least amount of source data. We need to increase our coverage of this important part of our economy. It is imperative that we do so immediately, because there are already signs that our statistics are lagging behind the economy’s advances. There has been a growing discrepancy between economic activity measured on a product basis and an income basis. In recent years, Gross Domestic Product (GDP) has been growing 0.5 percentage points slower than Gross Domestic Income on an annual basis. In theory, these two items should grow at the same rate since they are technically measuring the same thing.

Economists speculate that GDP growth is being understated because much of our recent economic growth has been concentrated in the hard to measure service sector. While a 0.5 percentage point difference in GDP growth might not seem like a lot, it has an enormous effect on our budget projections. Over a five year period, this difference could yield up to a cumulative $140 billion swing in our surplus estimates. Indeed, many believe that an understatement of GDP is a major reason why our national savings rate and major private economic forecasters have been underestimating revenues as of late. Thus, if we want to ensure that we have more accurate budget forecasts going forward, we should be directing our energies at improving the accuracy of the data used to build these forecasts. The Bureau of Economic Analysis (BEA) which compiles the GDP series has laid out an ambitious agenda to make just such improvements to its data collection procedures. Amongst other things, they are seeking to step up their coverage of the information sector in order to ensure that comprehensive data is available for the computer industry.

This is just part of their initiative to improve the GDP accounts. In order to do so, they have requested an additional $4.5 million. While this money is hard to come by given our tight budget caps, I think it is fair to say that this investment might have one of the highest rates of return within this bill. Indeed, in recent testimony to the JEC, Federal Reserve Chairman Greenspan said that statistics are “one of the areas where I believe the payoff is of sufficiently large magnitude where very small amounts of money can have very large potential rewards.” I hope that we take heed of Chairman Greenspan’s words and that we will be able to find the resources to allow our statistical agencies to improve their data collection processes. I believe that this is the most effective way to improve the accuracy of our budget forecasts and enhance the countless other policy decisions yet to be made.

TRIBUTE TO THOMAS ESTES

Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to the life and accomplishments of Thomas Clifford Estes, of New Ipswich, New Hampshire, who recently passed away at the age of 66.

The family of Tom Estes can take comfort and pride in the way that he lived his life. Born on November 28, 1931, to the late Bedford and Emily Estes of New York, Tom graduated from Erasmus Hall High School and later studied at RCA Institute.

Following his father's distinguished example, Tom enlisted in the country in the armed forces. Tom joined the United States Navy in 1951, shortly after the outbreak of the Korean War. For three of his four years of active duty, Tom served on the U.S.S. Tarawa, a Navy aircraft carrier that participated in the Asian war zone. He earned a number of Navy awards, including the Korean Service Medal, the United Nations Service Medal, the China Service Medal, the National Defense Service Medal, the Good Conduct Medal and the Navy Occupation Service Medal.

Tom's service to the nation was commendable, not just during the Korean War, but throughout his thirty-two years of Federal civil service. He began his career as a quality assurance engineer for the United States military in Florida and later moved to Dallas, Texas, before settling in New Hampshire in 1967. Upon his retirement, Tom was recognized by the Defense Logistics Agency for his contributions.

Tom was admired for his integrity, dedication to his community and positive demeanor. He remained a devoted husband to his wife, Mary, throughout almost thirty-five years of marriage and helped care for his disabled sister, Ethel. An accomplished chess player, Tom also enjoyed baseball and studied the law. He and his wife ran a small, twenty-acre farm in New Ipswich for many years. He was a man who cared about the needs of others and his community, whose sense of humor, cheery smile and knack for storytelling will be missed by all who knew him.

Tom will be buried with military honors at Arlington National Cemetery on Monday, August 3, 1998. I extend my deepest sympathy to his wife, Mary, his daughter, Evelyn, his sons Thomas and Peter, and his sister, Nancy. It is my great pleasure to pay tribute to this special American in the official RECORD of the annals of Congress.

TRIBUTE TO THE BLODGETT OVEN COMPANY IN HONOR OF THEIR ONE HUNDRED AND FIFTIETH ANNIVERSARY

Mr. JEFFORDS. Mr. President, July 23, 1998, is a great day for Vermont as we celebrate the sesquicentennial anniversary of the Blodgett Oven Company. On behalf of all of us, I want to wish the company a very happy anniversary.

For one hundred and fifty years, the Blodgett Oven Company has been a commercial cooking products manufacturer in Burlington, Vermont. Their products are renowned for their reliability and quality. Throughout the world, Blodgett ovens, broilers, steamers, and fryers are depended upon by the food industry. I believe that they can trust the Blodgett name to deliver efficient, technologically advanced machinery. Within Chittenden County, the Blodgett Oven Company plays an important role, stimulating the local economy by providing hundreds of jobs to area residents.

Mr. President, the Blodgett Oven Company is one of the most successful businesses in the state of Vermont. Their innovative products are well-known and among their clientele, the company is regarded very highly. This tribute recognizes the achievements of the Blodgett Oven Company and, equally as important, the workers who contribute to the company’s success.

40TH OBSERVANCE OF CAPTIVE NATIONS WEEK

Mr. DOMENICI. Mr. President, this year’s Captive Nations Week is dedicated to the “Memory of the Over 100 Million Victims of Communism.”

Behind the Iron Curtain millions were killed and millions more were victimized by the societal and political structures that coerced conformity and attempted to dictate thought in these authoritarian states.

The term victim in this context conjures up SS troops and gas chambers, the purges under Stalin, Hungary in 1956, and the Prague Spring. Countless tragedies are recounted in the stories of those who fought for freedom and died at the hands of a racist regime bent on genocide or in confrontation with a relentless and overpowering Red Army.

Fascism lasted for 12 years in Germany. Stalinism lasted twice as long in the Soviet Union.

As estimated 6 million perished in Nazi concentration and work camps during World War II.

Between 30 and 60 million perished through the work of Stalin’s secret police from torture and execution.

There were however, many more who persisted and became victims for their beliefs but remained clear in their conscience. The yoke of oppression could
not smote their passion. That is the essence of the "Power of the Powerless," according to Vaclav Havel, dissident, writer, and political prisoner who is now President of the Czech Republic.

The ideas contained in the "Power of the Powerless," as I remember it, were that one would like to convey to you on this occasion, because of its lesson in today's world where Captive Nations are few and the powerless seized the power, because it belonged to them all along.

In Europe:
A specter is haunting Eastern Europe: the specter of what in the West is called "dissent." This specter has not appeared out of thin air. It is the natural and inevitable consequence of the present historical phase of the system it is haunting. It was born at a time when the system, for a thousand reasons, can no longer base itself on the unadulterated, brutal, and arbitrary application of power, eliminating all expressions of non-conformity. What is more, the system has become so ossified politically that there is no practical way for such nonconformity to be implemented within its official structures.

The system was exemplified by the greengrocer whose store displays the slogan: "Workers of the world, unite!" Due to his nonconformity the greengrocer is indifferent to the slogan.

His obedience is verbalized in a manner that does not degrade his humanity so much as the truth. "I am afraid and therefore unquestioningly obedient." Ten years later, the system collapsed in the wake of dissent. The Berlin Wall fell in response to the pressure of East Germans voting with their feet, and within a year a microcosm of the former World Order vanished. Glasnost and Perestroika shook the ossified foundation of the Party and its dogma to its core, and the Soviet Union collapsed, allowing for self-determination and the birth of democracy in many formerly Captive Nations.

It was the Power of the Powerless, the greengrocer's humanity, that eventually brought the system to its knees. Any political system is comprised of the individuals within it, and these individuals, victims or conformists, possess the power of conferring legitimacy to the system.

In the former Captive Nations legitimacy waned when the victims refused to perpetuate the lie.

When the gap between ideology and daily reality could no longer be bridged by pat slogans and prescribed ritual, the system's foundation crumbled.

By accepting the rules of the game, individuals became players. But their refusal to abide by the rules frayed the tights of falsity upon which the system was based.

Rejection of the system is encapsulated in the following description:

One day something in the greengrocer snaps and he stops putting up the slogans merely to ingratiate himself. He stops voting in elections he knows are a farce. He begins to say what he really thinks at political meetings. And he even finds the strength in himself to express solidarity with those whom his conscience commands him to support. In this revolt the greengrocer steps out of living within the lie. He rejects the ritual and breaks the rules of the game. He discovers once more his suppressed identity and dignity. He gives his freedom a concrete significance. His revolt is an attempt to live within the truth.

In his expression of his identity and human dignity, the greengrocer becomes the victim.

He is purged from the system and punished. His actions are a reminder that an alternate truth exists, thus, he is a threat.

He has done more than express his dissent, he has illuminated the lie that comprise his surroundings.

His power is augmented in its juxtaposition to the facade. It was the many who expressed their identity in those Captive Nations who tarnished the ideological veneer that was to bridge the gap between truth and falsity. They were victimized, often murdered, for their unwillingness or incapacity to abide by the rules and forfeit their dignity.

Legitimacy is the glue that holds the system together. Legitimacy must be conferred by the individuals in the system. Without the power of individuals the system must utilize force, coercion and fear to maintain control. The days of an authoritarian state are always numbered, and democracy is the only legitimate social order. It is for this reason, believe that in time the remaining Captive Nations—Cuba, China, North Korea—will also join the community of democratic states. The ideological battle is over, and the system with the only solid basis for its legitimacy—its citizens—won.

In memory of the millions who perished under authoritarian regimes, it is only right for us to recognize their sacrifice. They rejected the facade and refused to perpetuate or propagate the lie. Their sacrifice is also a sobering reminder of our privilege.

It is also appropriate and important to recognize the victims who survived and are witness to the crimes of history. In commemoration of those who perished, it is all the more potent to recognize those who were victims and survived. Today we can applaud those who would not be victimized, the individuals who refused to be swayed by untruths and promises of power. They are the ones that I would like to remember today. The ones who fought tyranny and hatred have offered the greatest gift to those who tried and failed. They serve as a reminder to those around them that living a lie is worse than living in fear. And in the Captive Nations they were many in 1989 and thereafter.

CLIFFORD J. GROH

Mr. MURKOWSKI. Mr. President, a good friend of the State of Alaska was passed away on Sunday of failing Clifford Groh. He was a well-respected member of the Anchorage community and a leader in the Republican Party. He was educated in New York and New Mexico before settling in Alaska. He served his country in the Navy and plied his trade as a lawyer. Clifford served our state as a member of the Alaska Constitutional Research Committee, Chairman of the Anchorage Charter Commission, the Anchorage City Council, the Borough Assembly, and also as a State Senator. In 1967 he was appointed Honorary Chief by the Alaska Federation of Natives and in 1972, he was voted Outstanding Legislator of the Year by the Eagleton Institute of Politics at Rutgers University. Clifford served as our State Party National Committeeman from 1976-78 and General Counsel from 1978 to 1990. President Bush appointed Clifford to the Arctic Research Commission. In 1977, I had the pleasure of presenting him with the Republican Party of Alaska's Life Service Award. He is survived by his wife, Lucy and their three children.

Mr. President, we share the family's grief at their great loss and take solace in the fact that this talented, highly respected man will live on in the memory of all who had the pleasure to know him.

Tribute to the Devonshire Memorial Church of Harrisburg

Mr. SANTORUM. Mr. President, I rise today to pay tribute to the youth group from Devonshire Memorial Church in Harrisburg, Pennsylvania. On Sunday, July 26 ten students from the church will travel to Manning, South Carolina to assist in the rebuilding of the Macedonian Baptist Church which the Ku Klux Klan destroyed by fire in 1996. The young people will also be working to renovate homes of churches members that suffered damage due to the fire.

The teenagers, who raised their own support for the trip through things such as church-wide dinners and fundraising, have also destroyed our dignity and our humanity. By dedicating the time and effort to rebuilding the walls of a church burned by hatred and bigotry, these young men and women are tearing down the walls of violence and racism and restoring faith to the Christian community.

Mr. President, I ask my colleagues to join me in commending the youth group of the Devonshire Memorial Church for their dedication to restoring a church and a community, as well as the ideals of freedom in this country.
Mr. SHELBY. Mr. President, on behalf of Senator HOLLINGS, I ask unanimous consent that amendment No. 3294, previously agreed to, be modified, as modified, is as follows:

On page 96, strike lines 3 through 16.

AFRICAN ELEPHANT CONSERVATION REAUTHORIZATION ACT OF 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 39, Calendar No. 485.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3294), as modified, is as follows:

A bill (H.R. 39) to reauthorize the African Elephant Conservation Act.

The Senate proceeded to consider the bill.

Mr. CHAFFEE. Mr. President, I am pleased that the Senate is considering H.R. 39, the African Elephant Conservation Reauthorization Act. The bill was introduced by Congressmen Young on January 7, 1997, favorably reported by the House Resources Committee on April 21, 1997, passed by the House the same day, and referred to the Committee on Environment and Public Works. Senator JEFFORDS introduced a companion bill, S. 627, on April 22, 1997. The Committee held a hearing on both bills on November 4, 1997, and favorably reported them on May 21, 1998. Today we take up the House passed bill to expedite Congressional action on this important legislation.

The bill reauthorizes the African Elephant Conservation Act for four years, through 2002, at the current authorization level of $5 million annually. The current law was enacted in 1989, in response to a sharp decline in many populations of African elephants due primarily to poaching for ivory. Population estimates vary widely across its range, but the total population is estimated to have declined by as much as 50 percent, from 1.3 million elephants in the late 1970s, to less than 700,000 in 1987. The species continues to decline, with a population of about 540,000 elephants in 1996.

The Act established a process for implementing strict ivory import controls, established a moratorium on all ivory imports into the United States, which served as the impetus for the worldwide ban on trade in elephant parts and products, approved by the Parties to the Convention on Trade in Endangered Species of Fauna and Flora (CITES) one year later.

Through the Act, the Fish and Wildlife Service has funded 60 projects in 19 countries since 1990. The law has generated approximately $22 million for elephant conservation programs, of which $6.8 million has been provided by the U.S. Government, with $15.8 million from other sources. Indeed, the success of this law has led to similar laws for Asian elephants, rhinos and tigers.

Again, I am pleased that the Senate is considering this legislation, and I hope that the President will sign it into law soon. Thank you, Mr. President. I yield the floor.

Mr. SHELBY. I ask unanimous consent the bill be considered read a third time and passed.

EXPRESSING DEEPEST CONDOLENCES TO THE STATE AND PEOPLE OF FLORIDA FOR LOSSES SUFFERED AS A RESULT OF WILD LAND FIRES

Mr. SHELBY. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 298 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 39) was considered read a third time and passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislative clerk read as follows:

H. Con. Res. 298, expressing deepest condolences to the State and people of Florida for the losses they have suffered as a result of wild land fires that occurred throughout June and July of this year.

Many of my colleagues will remember that Andrew roared ashore in the middle of the night and vented its fury on the people of South Florida. The storm severely disrupted the lives of thousands of families. This August, Floridians will recall Hurricane Andrew with another natural disaster on their minds. Since May 24, a deadly combination of intense heat and prolonged drought sparked more than 2,200 forest fires in Florida's 67 counties.

For a state that has experienced in dealing with natural disasters, these fires have been spawned during what may be one of the worst years in Florida meteorological history. In late January and early February—in the midst of Florida's unusually wet winter—southern and northern Florida counties were deluged by massive floods. Not long after, parts of Central Florida were devastated by thunderstorms and tornadoes that are more typical in the summer months.

The fire crisis is the latest example of our state's climactic reversal of fortune in 1998. Florida's hot summer temperatures are typically accompanied by afternoon thunderstorms and tropical weather. This year's heat and drought, and the lush undergrowth and foliage that sprung up in the wake of Florida's unusually wet winter, combined to fuel the fires that have put the state under a cloud of smoke and ash, and chased nearly 112,000 residents from their homes—7,040 of them into emergency shelters.

Florida has sustained almost $300 million in private, state and federal losses. State and local governments have spent over $100 million in responding to the fires. In a step never before taken in Florida's long history with violent weather,
every one of the 45,000 residents of Flagler County—a coastal area between Jacksonville and Daytona Beach—had to be evacuated from their homes over the Independence Day weekend.

Mr. President, Mother Nature has once again subjected Florida to unprecedented weather conditions. But with the memories of Andrew's aftermath still fresh in our minds, we know that the national response to our pleas for help is anything but unprecedented—and are moved by the immediacy of Americans' heartfelt offers of assistance.

In response to this crisis, Americans from 44 states are fighting side-by-side with Floridians to prevent these fires from endangering families and engulfing even more homes, businesses, and roads. For example, U.S. Marines, National Guardsmen, and National Weather Service meteorologists from all over the country have converged on Florida. California, Oregon, and South Dakota—states whose residents are not strangers to violent weather and natural disasters—sent nearly 1300 fire fighting personnel to Florida. North Carolina, a state that is even more heavily forested than my own, sent 47 fire trucks and 169 firefighters to Florida. Pennsylvania, which lost more than 2,200 citizens in less than ten minutes during the catastrophic Johnstown flood of 1889, has contributed 89 volunteers to combat this natural disaster in 1998. In fact, so many states have donated equipment that two-thirds of all the firefighting helicopters in the United States are now working in Florida.

Mr. President, I have lived in Florida for more than sixty-one years. In that time, I have never observed wildfires as widespread and unmanageable as those that have plagued our state for the last forty-four days. On behalf of 14 million Floridians, I offer my deepest thanks to the thousands of Americans who have voluntarily left their homes and risked their lives so that our state's fire victims might not lose theirs. They are true heroes, and all of us who proudly call Florida our home are forever in their debt.

I am pleased to announce that the Herculean efforts of these brave firefighters were not in vain. Floridians who were forced from their homes have now returned, and almost all of the fires have been brought under control. Mr. President, I urge my colleagues in the Senate to support H. Con. Res. 298 to pay tribute to the citizens of Florida and those from around the nation who came to our assistance.

Mr. SHELBY. I ask unanimous consent that the concurrent resolution be agreed to, that the preamble be agreed to, the motion to reconsider be laid upon the table, and statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 298) was agreed to.

ORDERS FOR FRIDAY, JULY 24, 1998

Mr. SHELBY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:15 a.m. on Friday, July 24. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately proceed to the vote on passage of the transportation appropriations bill as previously ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:14 p.m., adjourned until Friday, July 24, 1998, at 9:15 a.m.
CONGRATULATIONS TO CENTRAL UNION ELEMENTARY SCHOOL

HON. GEORGE P. RADANOVICH
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, July 23, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Central Union Elementary School. Central Elementary has been honored as a California Distinguished School. The faculty and students of Central Union Elementary exemplify excellence with exceptional student achievement.

Central Union is located in the outskirts of Lemoore, in Kings County. Central’s heterogeneous groupings, extensive use of active learning projects, and popular extra-curricular programs take full advantage of richly diverse population and provide the students with opportunities to learn and play with children from different cultural, ethnic, linguistic, religious, and socio-economic backgrounds.

Central Union Elementary has over 308 diverse students in grades K–8. The student body is composed of 29% Native American, 4% African American, 28% Hispanic, and 39% White students. Central Union Elementary’s motto: “Together, We Achieve” shows a tradition of support for, and pride in, their excellent educational program. Evidence of Central Union’s history of quality education is seen in the large participation by parents in school events, traditional celebrations, and programs. 90% of the parents attended their recent parent-teacher conferences; 85% of the parents attended the programs and visited classrooms during Open House and Back to School Night last year.

Central Union Elementary places emphasis on student results. The school’s educational strategies and practices are consistent with this goal. Their content and student performance standards aligned with and are as rigorous as the “Draft Interim Content and Performance Standards.” Central Union Elementary has a safe, clean, friendly, orderly, and supportive environment for children.
are involved in their children’s education and collaborate with staff members to ensure achievement. Parent volunteer records document that over 3,337 hours were volunteered to assist students, programs and special events last year. Volunteer activities included collaborating with staff members in planning and executing a variety of events and activities. Teachers and parents are also involved in the decision making process, serving as chairs or members of committees, such as safe schools team, SSC, advisory councils, and supervising field trips, serving at the snack bar, correcting reports, and publishing newsletters.

Mr. Speaker, it is with great honor that I congratulate Central Union Elementary, a California Distinguished School. The students and faculty of this school exemplify a care for the community and a dedication to hard work. I ask my colleagues to join me in wishing Central Union Elementary many more years of success.

KEN STARR SHOULD REPORT: CASE CLOSED

HON. JOHN J. LAFALCE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 23, 1998

Mr. LAFALCE. Mr. Speaker, I commend to the attention of our colleagues the following editorial on Independent Counsel Kenneth Starr’s investigation which appeared this month in the three “Greater Niagara Newspapers” published in my district in Western New York: The Niagara Gazette (Niagara Falls); The Union Sun & Journal (Lockport); and The Journal-Register (Medina). Among other things, the editorial faults Kenneth Starr for his failure to submit an interim report to Congress, as required by law. If, after three years and $40 million, Mr. Starr has been unable to find any substantial and credible information about possible crimes by the president, the editorial concludes, “Starr’s report should start and end with the phrase, ‘Case closed.’”

The editorial follows:

WRITE A CLOSING CHAPTER

What to say? Mr. Speaker, Kenneth Starr has been up to lately in his $40 million quest to nail President Clinton on charges of being a Democrat? You won’t find out from him. The special prosecutor won’t deliver an interim report on his publicly funded wild horses. If there’s no substantial and credible information about possible crimes by the president, the editorial concludes, “Starr’s report should start and end with the phrase, ‘Case closed.’”

The obligation to file such a report is written right into the independent counsel law under which Starr was appointed. But there’s no time element in the requirement. Oops, it looks as if Starr is riding that loophole into the sunset. His method of choice for reporting apparently is well-orchestrated leaks to the media.

Starr began his quest for a crime to pin on Clinton by investigating “Whitewater,” a series of Arkansas real estate deals in the president and Mrs. Clinton were involved. He found no evidence of criminal wrongdoing by the Clintons.

Attorney General Janet Reno helped Starr turn his attention and the taxpayers’ money to an inquiry into the president’s relationship with former White House intern Monica Lewinsky. Our question is, does the public need or want to know anything about the president’s private affairs or lack thereof? We say no. The public is busy, and the opposition political party wishes hadn’t been elected. Get over it.

If there’s no substantial and credible information about possible crimes by the president, the editorial concludes, “Starr’s report should start and end with the phrase, ‘Case closed.’”

IN RECOGNITION OF PAUL E. GOULDING

HON. PATRICK J. KENNEDY
OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 23, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, in last month’s Financial Executive magazine a featured interview with Paul E. Goulding, a management consultant to businesses large and small, focused on procurement of Federal contracts. Mr. Goulding, who is a constituent of mine and an expert in procurement issues, has had broad experience in the field of government contracting in a long distinguished career that includes senior executive positions in Federal service as well as the private sector.

As an Administrative Assistant to Senator Claiborne Pell, he worked closely with Rhode Island businesses and individuals and assisting them in obtaining Federal contracts. While Deputy and Acting Administrator of the General Services Administration in 1979 and 1980, he developed an 8-point program to cut operating costs at GSA. And as a Professional Staff member of the Senate Committee on Rules and Administration, he conducted the first comprehensive study of the Senate’s major operations, including how to improve its procurement procedures.

Mr. Goulding has, in fact, played active roles as an advocate to the Small Business Administration and in assisting the government procurement process. First, as a congressional staff member in assisting the business community in our state of Rhode Island. Secondly, as head of the largest non-profit advisory group in the country that assists small businesses, he has had long experience in the field of government contracting in a long distinguished career that includes senior executive positions in Federal service as well as the private sector.

Mr. Goulding has, in fact, played active roles in government as well as in the business community. Mr. Goulding was a member of the Senate Committee on Rules and Administration, he conducted the first comprehensive study of the Senate’s major operations, including how to improve its procurement procedures.

Mr. Goulding has, in fact, played active roles as an advocate to the Small Business Administration and in assisting the government procurement process. First, as a congressional staff member in assisting the business community in our state of Rhode Island. Secondly, as head of the largest non-profit advisory group in the country that assists small businesses, he has had long experience in the field of government contracting in a long distinguished career that includes senior executive positions in Federal service as well as the private sector.

Mr. Speaker, it is with great honor that I congratulate Central Union Elementary, a California Distinguished School. The students and faculty of this school exemplify a care for the community and a dedication to hard work. I ask my colleagues to join me in wishing Central Union Elementary many more years of success.

PEG: While you might assume they would, my experience indicates that isn’t the case. For instance, some big companies get involved in bidding on major contracts and find that the way they are billed is not comparable to what they might be paid by the government. People, who want to make the sale, are saying one thing while their government relations people have an entirely different view of what should be submitted.

A dilemma for top management?

PEG: Exactly. Some small niche companies, on the other hand, know exactly what their market is and how best to sell to it. Each case is different and there is no cookie-cutter formula. I keep an open mind and try to evaluate each site.

Although small and medium-sized firms frequently need more help steering through the process, they are often more successful than larger companies because they tend to be more flexible and less bureaucratic when faced with complex challenges.

Why should firms of any size bother to do business with the U.S. government given all the red tape involved?

PEG: When I hear that question, I tell the story of the businessman who buys a hardwood store after moving to a small town. He asks his new employees who the biggest customer in town is. He is surprised to learn that the customer doesn’t do business with his store. When he asks why not, his employees say the customer is difficult to do business with and requires a lot of forms. The businessman asks if the customer is very wealthy, doesn’t bounce his checks and usually does repeat business when satisfied. That’s the type of customer the federal government can be.

Just how big a customer is the U.S. government?

PEG: The U.S. government buys goods and services valued at over $200 billion. That makes Uncle Sam the biggest customer in the world. It’s not just the dollar figure that’s large, but the number of individual acquisitions. According to the GSA Procurement Data Center, over 20 million individual contract actions are processed every year.

Now that we’re in a global economy and even small businesses are entering the overseas export market, and given all the problems in dealing with tariffs, quotas, foreign currency exchange, itineraries of credit and shipping, it doesn’t make sense for U.S. companies to fail to maximize their U.S. government business, which is right on the doorstep.

What would you advise firms that want to do business with the government?

PEG: It will require an investment of time, money and resources. Starting a relationship with the government is very similar to a company entering a new market overseas. The company has to make a commitment to the market. Sometimes I get asked why they can’t just go after one contract and see how they do. Well, that system is just about as effective as the guy who goes to the race track and bets on one race to see if he’s going to win that day.

Like any start-up marketing effort, the company has to be willing to allocate manpower and resources to help develop their government business.

What would you advise a company that already does some business with the government?

PEG: I would first ask what percentage of the domestic U.S. market the firm serves. If it’s over 10 percent, then I would ask what percentage of the government market for your product you control. If the answer is 5 percent, then at the very least you need to develop a strategy for getting your government business.

What else do you tell a new client looking to grab government business?
 peg: I explain how often doing business with the government is the reverse of doing business in the private sector. Before you can make a government sale, in many instances you must do considerable research to find out how the government buys your product or service, who buys it, where they buy it and, often overlooked, when they buy it. Also, the government sometimes changes the rules or methods by which it procures goods and services.

if you take the time and trouble to learn the system, you can figure it out.

why do companies turn to consultants like yourself to help them?

peg: the principal reason is that it's more efficient. it is less time consuming and, in the final analysis, less expensive to involve qualified people on your team.

is doing business in Washington different from doing business in, say, cleveland?

peg: it certainly is. it's important for corporate leaders to make a commitment of time and effort to learn the business practices here, which are often different from those in the private sector. at the same time, a similar commitment has to be made to develop long-term political and social relationships with a large number of players on capitol hill and in the bureaucracy. success in Washington absolutely requires both.

thank you to Patton lane for service on my staff

hon. bart gordon of tennessee

in the house of representatives

THursday, july 23, 1998

Mr. GORDON. Mr. Speaker, at the end of this month, Mr. Joe Patton Lane III will leave my office to enter the School of Law at Roger Williams University in Rhode Island.

Patton has been a loyal and effective member of my congressional staff for the past three years. However, I have known Patton for over a decade. As a college student, he assisted with my re-election campaigns. My staff and I join my staff in wishing him what would have been his centennial by reminding us of what this great man did. If only there were more people like him.

congratulations to Gettysburg elementary school

hon. george p. radanovich of california

in the house of representatives

THursday, july 23, 1998

Mr. RADA NOVICH. Mr. Speaker, I rise today to congratulate Clovis Unified School's Gettysburg Elementary School for being nominated as a "California Distinguished School" and for achieving the "Clovis Distinguished School Award." Gettysburg Elementary has educated students with great success over the years and has served as a tremendous catalyst to the community. The faculty and students of Gettysburg Elementary exemplify excellence in student achievement and are very deserving of this recognition.

Gettysburg Elementary School is located 10 miles east of Fresno in the heart of the San Joaquin Valley. The school has a student population of 691 students in Kindergarten through grade Six. The school has students who range from the middle to lower-middle class socio-economically, with actively involved parents that provide the critical link between the school and home.

The foundation of Gettysburg Elementary School lies within the concept of being a community-centered school. Gettysburg enjoys an unusually high degree of volunteering and support from community-based businesses. In the 1997–98 school year approximately 275 parents volunteered their time as classroom aides and in the library. In a combined effort with teachers, students, parents, and the community, Gettysburg was recognized as a National Exemplary Safe and Drug Free School.

Gettysburg prepares all students for the challenges of the 21st century by developing confidence and skills in critical thinking through participation in a wide range of goal-oriented experiences. Gettysburg School's Administration concept of education is to nurture the whole child and is emphasized through focusing on development of each child's mind, body, and spirit. Each student participates with both parents and teachers in the "Goal Sharing Programs," where they set both academic and behavioral goals. As a result, Gettysburg Elementary School was selected as a model program by Phi Delta Kappa and received the "Award for Value and Character Education."

In the 1997–98 school year, the students achieved superior academic scores in reading, language, and mathematics on the California Assessment Tests. Gettysburg maintained an average daily attendance of 99.78% last school year.

Mr. Speaker, I rise today to congratulate Clovis Unified School District's Gettysburg Elementary School for being nominated as a "California Distinguished School" and applaud both the school and the community for their commitment to their children's lives. I ask my colleagues to join me in wishing Gettysburg Elementary School many years of success.
The House in Committee of the Whole

Mr. BLUMENAUER. Mr. Chairman, last night the House voted on Mr. PARKER of Mississippi's amendment No. 18 to strike certain provisions of the Interior Appropriations bill, H.R. 4193. These provisions direct the Indian Health Service to allocate contract support costs funding on a pro rata basis to all tribal contractors. I voted against that amendment in error. Removal of this provision is vitally important to the Tribes in my district and throughout the Northwest which are working to identify thoughtful, participatory solutions to an inadequate system of health care provision. I support the Parker amendment and the tribal self-determination it encourages.

ZLAN, LTD. DEVELOPS MAJOR ADVANCEMENT IN ELECTRICAL FIRE SAFETY

HON. RALPH M. HALL
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 22, 1998

Mr. HALL of Texas. Mr. Speaker, one of the new high-tech firms in my district, Zlan, Ltd. of Wylie, TX, has come up with an affordable solution to a major cause of the loss of life and property in this country: electrical fires. Each year thousands of people die or are seriously injured and billions of dollars of property is destroyed because of electrical fires. I am told that Zlan's technology, properly installed in the home, can improve electrical fire safety by as much as one-hundred fold, dramatically reducing electrical fires.

This is not a new problem. As early as 1978, the House Interstate and Foreign Commerce Committee's Oversight and Investigations Subcommittee found that "... often the dangerous malfunctions of these systems, which may lead to fire, takes place behind the walls of one's home over a period of time and finally fire erupts without warning. . . . (I) is essential that industry and government work together to find a solution to this problem."

In 1994 the Consumer Product Safety Commission (CPSC) asked Underwriters Laboratories (UL) to identify new technology products for reducing electrical fires. George A. Spencer, who is Zlan's founder and CEO, invented an electronic circuit breaker and has spent many years developing and improving this technology. Zlan, Ltd. began developing prototypes of its Digitally Enhanced Circuit Breaker® to the CPSC and UL. CPSC has indicated substantial interest in this technology.

Last spring Spencer and the Zlan team presented to the CPSC staff an update of their electronic circuit breaker technology designed to detect arcing faults. Key features include: Microprocessor controller for state of the art technology. Arc detection to analyze low and high current problems in wiring. False trip protection for routine power surges, i.e., motor start-ups, etc. Auto self-test plus manual test capability. LED status light for performance assurance and fault identification. Serial Port options for remote monitoring, test and remote trip capability.

Zlan's Load Center Monitor works with the Digitally Enhanced Circuit Breakers to provide audible and visual indicators of faults, store performance data, identify causes of electrical malfunctions as well as communication capabilities to monitor electrical systems. Zlan has entered into an agreement with STMICROelectronics, Inc. (ST) to manufacture a custom chip-set using Zlan’s Arc Fault Interrupter (AFCI) technology that will provide a low cost solution to the circuit breakers manufacturers. Most homes can be upgraded to the new AFCI circuit breaker at a cost estimated to be as low as $800.

This major advancement in electrical fire safety is expected to be on the market in time to meet new electrical building codes now being drafted. Innovative use of new technology to improve flawed and dated technology has always been the hallmark of American ingenuity. I am extraordinarily pleased that the creative minds at Zlan have chosen to locate and build their business in my district to advance a promising technology that can save lives and give families the opportunity to make their homes safer places to live.

DISAPPROVAL OF MOST-FAVORED-NATION TREATMENT FOR CHINA

SPEECH OF
HON. CASS BALLINGER
OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, July 22, 1998

Mr. BALLINGER. Mr. Speaker, once again legislation to overturn our current trade relations with the People's Republic of China has reached the House floor. This annual exercise divides our nation over our relationship with the most populous nation in the world. The only thing which has changed is the terminology. We now refer to Most Favored Nation (MFN) trading status as simply Normal Trade Relations (NTR), a more accurate description. We now refer to Most Favored Nation trading status as simply Normal Trade Relations (NTR), a more accurate description of this annual trade vote.

I will reluctantly vote against the resolution, Disapproving the Extension of Nondiscriminatory Treatment to the Products of the People's Republic of China (H.J. Res. 121), before us today. I do recognize China's deplorable record on human rights and our moral obligation to speak out for the weak and voiceless in China. However, in reaching my decision, I again asked myself these questions, "In the long run, will revoking China's trade status be good or harmful to the Chinese and the American people, and will it improve human rights in China?" I must conclude that revoking China's trade status would be counterproductive to these objectives.

As I have stated previously, the U.S. can do more to advance the cause of human rights and foster religious, economic and political freedom if we continue to engage the Chinese in economic cooperation. Social freedom—like freedom of religion—are a direct result of economic liberalization. If we remove all of China's trade privileges, we are not only isolating that country, but we are losing any opportunity to improve the human condition there.

Terminating normal trade relations with China will hurt the American worker and consumer as well. From 1991 to 1997, U.S. exports to China rose 71% from $7.5 billion to $12.8 billion. In addition, exports of U.S. goods and services to China and Hong Kong support an estimated 450,000 American jobs. From an agricultural perspective, the American Farm Bureau has called China "the most important growth market for U.S. agriculture in the twenty-first century." The United States Department of Agriculture estimates that China could account for one-third of future growth in U.S. farm exports in the years ahead.

Despite my position on NTR with China, I remain concerned about allegations that the Clinton White House violated existing campaign finance laws by accepting illegal foreign contributions from China. In return, the Clinton administration sacrificed American national security by allowing the Loral Space and Communications Ltd. and company to provide China's space industry with specific technological expertise, strengthening its nuclear and missile capabilities. I believe the Congress has an obligation to look into these critical charges, and I support all efforts to continue House and Senate investigations.

In conclusion, if we choose to cut off our ties with China, we end up harming those who need our help the most—the Chinese people. Just as important, we hurt American workers, farmers and businesses which would export to China, now and in the future. I urge my colleagues to vote down H.J. Res. 121.
the Greater Cleveland community. Dr. Milagros Acevedo Cruz, Michelle Melendez, Mario Ortiz, David Plata, Raquel Santiago, Lydia Esparraga, Orlando Salinas, Ana Garcia, Yolanda Perdomo, and Jundy Caraballo. I hope that my fellow colleagues will join me in honoring these individuals and praising the Puerto Rican people as they celebrate Constitution Day.

IN RECOGNITION OF KATHLEEN S. BLACKMAR

HON. PATRICK J. KENNEDY
OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 23, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to bring to your attention the recognition of a Warren post office employee who was recently recognized as the Federal Employee of the Year in Rhode Island. Kathleen S. Blackmar was honored at the 27th annual awards ceremony held at the BankBoston Operations Center in East Providence by the Federal Executive Council of Rhode Island. She was nominated for the award by Warren postmaster Eric B. Lawson.

Kathy has become known as a very valuable asset to the Warren post office. In her job as custodian, she is responsible for making building repairs, performing janitorial duties, and assisting customers with lost or broken post office box keys. Her fellow workers share the belief that she has a work ethic that cannot be identified by level of job title. She has educated herself about boiler repair and diagnosis and she makes minor repairs to the office's fleet of vehicles. On top of this, Ms. Blackmar maintains and landscapes the grounds and clears snow. She readily has given her time to serve as coordinator for the Combined Federal Campaign, the annual drive for the contribution to community organizations. She has also coordinated the post office's Toys for Tots campaign and the annual "Christmas Wish List." I am proud to recognize Kathleen Blackmar as an outstanding individual and to commend her for her contribution to public service.

30TH ANNIVERSARY OF LOCKPORT HIGH SCHOOL 100-MILE RELAY RECORD

HON. JOHN J. LAFLANCE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 23, 1998

Mr. LAFLANCE of New York. Mr. Speaker, I would like to call to the attention of our colleagues the 30th anniversary of an extraordinary high school track and field record that still stands today. In June, 1968, eight members of Lockport Senior High School in Lockport, New York ran the 100-mile relay in a time of seven hours, 27 minutes and 53.6 seconds. This mark beat the previous New York State record by a full nine minutes. It is also an astonishing 26 minutes 36.5 seconds faster than the existing world record as listed in the Guinness Book of Records. And that so-called world record involved 100 runners—not eight.

Members of the record-setting relay team, led by Coach John Chew, were Jim Fycyna, Charlie Quaglino, Bob Brown, Brian Brooks, Jeff Helshof, Frank Pfeil, George Bickford, and Jeff Watkins. Each of these student-athletes ran 12 1/2 miles in spurts of 110 yards, 220 yards, and 440 yards. The overall average time was less than four minutes and 30 seconds per mile.

Mr. Speaker, the State of New York recently passed a resolution congratulating the 1968 Lockport High School relay team, and the Mayor of Lockport issued a proclamation commending their achievement. I too am pleased to recognize these eight men on the occasion of the 30th anniversary of their 100-mile relay record, and ask all Members to join me in congratulating them as they reunite this month to celebrate their tremendous athletic performance.

OUR WAR ON DRUGS BEST WEAPON: GOOD PERSONNEL—HELP, DON'T HINDER, OUR CUSTOMS EMPLOYEES

HON. BOB FILNER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 23, 1998

Mr. FILNER. Mr. Speaker, this morning, I had the honor and privilege to speak to the National Treasury Employees Union and other national law enforcement groups. I outlined the successes that Customs employees have had in our War on Drugs and spoke of my opposition to H.R. 3809, which would undermine that success.

In my own district, Robert Hood, a Customs inspector, is considered one of the "Best of the West" in Operation Brass Ring, a concerted effort to increase drug seizures among all agencies policing the border. From February through June of this year, Robert led the San Diego region in drug interdiction, seizing more than 8,745 pounds of marijuana and 11 pounds of methamphetamine. Robert Hood is joined by other heroes—in the San Diego Customs area, the valiant men and women policing the border who have been responsible for nearly tripling the amount of cocaine and methamphetamine seized, while the number of seizures of marijuana have nearly doubled.

In just the past six months, Customs personnel have made an incredible impact on the amount of drugs getting to our streets and into our children's pockets! That is why the Fraternal Order of Police, the National Association of Police Organizations, and the Border Patrol Council, among others, join me in opposing H.R. 3809 and asking those who support it, "What could you be thinking?"

The bill undermines the partnership that has flourished between Customs personnel and their managers in the successful drug interdiction efforts. It would restrict employees' rights to have significant input on safety issues—and it would cut their pay. How does cutting Customs employees' pay for working their regular night shifts help to bolster our War on Drugs? I simply don't understand it.

I support the provisions in H.R. 3809 that boost 1999 funding for Customs, and I urge the Senate and the President to also support the increase of their 100 percent, while rejecting the provisions that cut Customs personnel negotiating rights and their hazard pay for essential nighttime shifts.

H.R. 3809 gives us tools to fight the War on Drugs, but puts those who will use the tools in straightjackets. We will lose the War on Drugs and waste taxpayers' money if we spend money on expensive, cutting-edge equipment at the same time we undermine employee morale and labor standards.

Listen to the partners in the War on Drugs—police officers know they cannot win the war if Customs efforts to keep drugs from entering the country are thwarted. I support the frontline soldiers in the War on Drugs—our Customs personnel—and urge support only for those that enhance, rather than detract, from their good work.

IN HONOR OF DR. MARGARET STORTZ AND REV. VICTOR POSTOLAKI, MINISTERS OF THE FIRST CHURCH OF RELIGIOUS SCIENCE

HON. BARBARA LEE
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, July 23, 1998

Ms. LEE of California. Mr. Speaker, it is with honor that I share with you the accomplishments and religious commitment of Dr. Margaret Stortz and Rev. Victor Postolaki, who will be honored by the First Church Religious Science on Sunday, July 26 in Oakland, California.

Dr. Stortz will be stepping down as senior minister after 14 years and Rev. Postolaki, as assistant minister after 12 years of service. As ministers each has provided guidance and support to its congregants and the residents of Oakland and the East Bay.

As leaders of First Church, they encouraged community outreach on an economic level and have generated monies to assist the survivors of the 1989 Loma Prieta Earthquake, the Oakland Firestorm. Their fund-raising efforts such as the "Love Project" in conjunction with Allen Temple Baptist Church assisted in the rebuilding of the Black churches burned in the south, the North Dakota Flood, and the Mexico Earthquake. They have through the church volunteer programs, arrange for the creation and distribution of grocery baskets and food vouchers for numerous economically disadvantaged families and organizations servicing this constituency.

They worked with Bay Area Ministries to make Oakland a better community for all its residents. Both were concerned about youth and were actively involved in programs that educated our children specially the teen empowering program serving the East Bay. Dr. Stortz served as Assistant Minister in 1981 and as the senior minister since 1984. In 1983, she was elected President of the Northern California United Church of Religious Science. Over the years Dr. Stortz held numerous offices within the United Church of Religious Science organization, as member of the International Board of Trustees and the President of the United Church of Religious Science.

Besides her ministerial duties she is an author and has an extensive list of works. Her written works include Start Living Every Day of Your Life, How to Enjoy Life and Fight into Life. She has produced Seven Spiritual Laws of Success based on Deepak Chopra's Book of the You Prosper, We Prosper—a 10-day
FUNDING OF THE NEA AND CENSORSHIP

HON. BERNARD SANDERS
OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SANDERS. Mr. Speaker, I would like to have printed in the RECORD statements by high school students from my home State of Vermont, who were speaking at my recent town meeting on issues facing young people today.

FUNDING OF THE NEA AND CENSORSHIP

(By Daniel Luger)

There has been a great deal of controversy lately about the National Endowment for the Arts. The Supreme Court is expected to rule in July in the case of National Endowment for the Arts versus Finley to decide if the federal law requiring the head of the Endowment to consider general standards of decency and respect for the diverse beliefs and views of the American public when considering whether or not to award a grant. In Congress last month, Senator John Ashcroft, together with Senator Bill Frist, attempted in an appropriations bill, to kill the endowment program entirely.

From the beginning, the National Endowment for the Arts has been a controversial program. Certainly the endowment is a valuable program. Before 1965, when the endowment was instituted, the arts were, to a great extent, elitist, art and murders of society and accessible only to the cultural elite. Since then, the arts have expanded greatly, and are now accessible to the masses and thus be a mechanism to educate the majority, which was the point.

In the words of Maryanne Peters, the President of the Board of Directors of the National Campaign for Freedom of Expression, “In creating the NEA, Congress recognized that the arts are integral to fostering imaginative thinking in our culture.” In the 33 years which the National Endowment for the Arts has existed, the role of art in our culture has greatly increased. One of the main contributions that the Endowment has made to our society is funding the American art world from a largely market-driven world to a system which allows artists to explore and expose communities to new creative fields, where they can worry about how to purchase materials, or even purchase food.

It is important to remember, though, that money from the National Endowment for the Arts is a prize, bestowed upon artists whose work is either exceptionally good or greatly needed in a given community. Artists who receive money from the Endowment are singled out for the content of the work. Organizations like National Campaign for Freedom of Expression would like us to believe that the law requiring the head of the Endowment to consider standards of decency when awarding grants amounts to a violation of the rights to free speech.

This line of reasoning is flawed, however, in that The First Amendment to the Constitution states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press.” The fact of the matter is that the above-mentioned law is not a law restricting freedom of speech. The National Endowment for the Arts is there to support the ever-expanding arts community, regardless of quality work; it is an organization which awards grants to artists of first quality.

The law simply requires potential grant-givers to consider decency with respect to art. The law does not restrict the freedom to speak in any way, since no artist is restricted from anything; they will simply find it slightly more difficult to receive federal money for offensive work, which seems a logical and acceptable standard for art to be in. So the law is not unconstitutional.

That being said, the other issue that artists and artists’ groups have brought up is the potentially harmful vagueness, which could lead to numerous selection and rejection of an artist’s work, which is absurd in a federal program, where standards are needed in order to determine an artistic piece’s relevance in relation to the policies and purpose of the National Endowment for the Arts.

This is certainly a legitimate concern, and one which needs to be addressed for the National Endowment for the Arts to continue to function in a manner that benefits society. What the National Endowment for the Arts needs to continue in a way that benefits America are clearer laws and a stricter codification of the grant system. In this way, artists can be granted money based on the arts. The law does not restrict the freedom to speak in any way, since no artist is restricted from anything; they will simply find it slightly more difficult to receive federal money for offensive work, which seems a logical and acceptable standard for art to be in. So the law is not unconstitutional.

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given the opportunity to work with the Ver- 
mont Institute for Math, Science and Tech-nology on developing a handbook for under-
standing the Vermont framework of stand-
dards that is also a part of our education system right 
now. And I found, through visiting 
other schools and talking to college-level 
people, that the Vermont frameworks are 
not understood as much as they should be, 
and they are the basis for our entire education system for the 
next decade.

I think that putting standards into edu-
cation is a good concept for a lot of things, especially the standards as high as 
these, and my concern is that, when students 
see standards for the first time, which won't 
be for a couple years, they are going to 
choke.

I come from CVU, which is a school where 
you have to do a standard-based project to 
grade, and when this project first started 
off—the number was 88 percent of kids, three 
years ago, failed to meet the standards on 
their first time around. Had there not been a 
second chance to meet that standard, had it 
been like an exam for their final in the course, 
88 percent of those kids, of a class of 200, 
would have stayed back and joined the 
class behind them.

Putting standards into schools is a good 
thing, to level the playing field and say, 
well, students in Rutland are doing the 
same thing as those in Essex. And it is based 
around this one concept or these ideas. 
But putting it into such pass-fail 
strings and saying that they are a standard 
that they have to pass will backfire. And 
the setup for Vermont's frame-
work of standards is based on a program that 
was started in Essex, I believe, and they 
stand that was put in place in our education 
system as soon as it is fully imple-
mented.

My biggest concern is that, once it is im-
plemented, at what point do students find 
out about the standards that are expected to be 
moved? I found out my junior year. I would 
have liked to have known my freshman year, 
and maybe earlier. This is one of the issues 
I brought up when I was working with 
VIStA. The handbook that under-
stands the standards, is that the students 
should know what is expected of them from 
day one, and the handbooks that I was given 
should be made available to everyone from, 
probably, 7th grade, or earlier, on. And 
parents should be kept informed of what the 
standards are from the time their child en-
ters the school system until long after, be-
cause they should continue their role as 
an active member of the community to know 
what is being expected of their local students 
and how they can get involved to change 
that.

STATEMENT BY RHY'S MARSH REGARDING ACT 60/FEDERAL EDUCATION FUNDING

Act 60 is one of the most controversial and 
monumental bills to pass the Vermont legis-
lature in recent years. It comes in response to 
a 1996 decision by the Vermont Supreme 
Court which declared Vermont's system of 
education was unconstitutional, according to the 
Vermont constitution.

The main purpose of Act 60 is to 
realize public school funding opportunities 
that have been in place for years. Act 60 accomplishes 
this by introducing a statewide property tax 
of $1.10 per $100 of property value, which 
raises $150 million annually to provide equal 
local property taxes to all Vermonters.

As all but 13 of Vermont's 252 towns are 
currently spending more than the $5,000 
block grant per student, towns are given the 
option of raising additional money for their 
schools through a local property tax. Under 
Act 60, the distribution of monies raised 
through local property taxes is equalized as 
well. A tax increase of one cent per $100 of 
property value in Vermont, which has a fair 
market property value of about $9 million 
would mean a $1,100 tax increase on a one 
cent increase would increase in Stowe, which 
has a fair market property value of $769 mil-
ion. Because of this discrepancy, so-called 
gold towns such as Stowe and Stratton must 
give some of their money raised through local 
taxes to the state. This has the effect of making a one cent tax increase in Stowe 
reduce the gap in school system quality 
as a cent tax increase would produce in 
Vermont.

Opponents of the bill say Act 60 has put an 
unfair tax burden on the more wealthy 
towns, as they must now share their prop-
erty tax dollars with other, poorer towns. 
Some also complain that less affluent fam-
ilies who own property in gold towns will 
be hurt by the tax increase those towns are 
likely to face.

However, Act 60 has, in reality, only given 
Vermont students equal chance for edu-
cation funding, regardless of geographical loc-
ation. Before Act 60 was passed, property 
taxes varied widely across the state. In 
Vermont. For example, Stratton provided 
levy funds to its schools with a tax rate of 
only 42 cents per $100. However, in Standard, 
a much more affluent town, the tax rate 
was $4.39. Under Act 60, both properties 
will be taxed $1,100, unless their towns decide 
to spend more than the $5,000 per pupil block 
grant the state provides. This means that the property-rich towns 
will now get the same bang for the buck as 
property-poor towns. Even if the gold towns 
continue to fund their schools at the current 
high levels, the property taxes will not 
increase the levels any greater than the rates 
some towns currently pay to send moderate 
money to their schools.

In addition, families with incomes of less 
than $75,000 have been protected from the 
possible tax increases associated with Act 60, 
by capping their property taxes at between 3 
and 5 percent of the household income. Act 
60 has provided an effective and equitable so-
lution to the problems of Vermont's property 
taxes and education funding.

However, the property tax is still a regres-
sive tax, and there are still enough inequal-
ities in the state and local taxes within the 
nation. While there is no stipulation in the 
Federal Constitution that requires equal 
education funding from state to state, in-
creased equality is needed to aid states to 
cut down the property tax and the funding inequities nationally. 
Therefore, I believe the Federal 
Government should enact legislation based on 
the ideas behind Act 60 and increase the 
contribution to public education. This would 
help to distribute the wealth of the United 
States more homogeneously and improve 
school quality, especially in the nation's 
poorer school districts. It also would move 
more of the tax burden onto Americans from 
un regressiveness and volatile local property tax 
to the progressive income tax of the Federal 
Government.

Act 60 also wonders for Vermont. The United States of America could utilize the 
benefits of legislation similar to Act 60 on a 
national level, to reduce our reliance on re-
gressive taxes and provide more equal fund-
ing for our nation's schools.

Thank you.
to overcome injustice and build racial harmony. This organization is an important part of our great city of Detroit promoting social justice and practical solutions to the problems that plague our inner-cities like: hunger, economic disparity, inadequate education, and racial divisiveness. Focus: Hope combats these problems with technical training, educational and corporate partnerships, and food programs. These are not handouts but a helping hand to give people the tools and means to rejoin society.

This wonderful organization came into being as a result of the riots of 1967 which caused such turmoil in our community. Out of all this Focus: Hope was created like the Phoenix rising from the ashes to turn a city that was ravaged by civil disturbance and racism into a city that has so much to offer for everyone who lives within its borders—a city I am proud to call home.

Focus: Hope’s food program helps feed and provide nutrition to pregnant women, postpartum mothers, children from infancy to six and senior citizens sixty years and older. It pays particular attention to at-risk mothers by providing free food, nutritional education and food demonstrations on how to prepare various dishes for the mother and her baby with the monthly food they receive.

Academic skills and job training are an important aspect of Focus: Hope’s mission. Fast Track and First Step are two successful programs which help people get back on their feet and learn to advance into good paying technical jobs. First Step works to upgrade the math, communications and computer skills of trainees so that they may enroll in Fast Track or the Machinist Training Institute. Fast Track focuses on academic skills and the disciplines of high school to give folks the tools they need to pursue further technical training or higher educational pursuits.

Mr. Speaker, I would like to close by reading Focus: Hope’s mission statement that describes so well what they have done, do and will continue to do hopefully for many more years to come. “Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty and injustice, and to build a metropolitan community where all people may live in freedom, harmony, trust and affection. Black and white, yellow, brown and red from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this covenant.”

Mr. Speaker, I ask that all my colleagues join me in paying tribute to this wonderful organization which gives people a second chance and also, gave the city of Detroit a second chance.

SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998

SPEECH OF

HON. ROSA L. DELAURU OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1998

Ms. DeLAURO. Mr. Speaker, in the 104th Congress, I voted to pass the Private Securities Litigation Reform Act, which was signed into law. The purpose of the law was to reduce the number of frivolous lawsuits brought against companies or stock brokers for fraud.

The bill was aimed at stopping lawsuits by investors in high tech companies that didn’t make as much money as expected. These lawsuits are so commonplace, that sometimes claims even brought into the suit after the suit is filed by a large law firm.

High-tech companies, of which there are many in Connecticut, have volatile stocks and are particularly susceptible to such suits. These companies are often forced to settle with investors rather than fight in court.

Now we need to further refine the law for litigants who try to skirt the law by suing in state instead of federal court. We need one standard for all fifty states. I am pleased to offer my support for the Securities Litigation Uniform Standards Act, and I urge my colleagues to support this measure and close a frivolous lawsuit loophole.

THE PATENT PROTECTION ACT OF 1998

HON. J. DENNIS HASTERT OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 21, 1998

Mr. Speaker, I submit for the RECORD, a section-by-section analysis of H.R. 4250 the Patient Protection Act for my colleagues to review.

THE PATENT PROTECTION ACT OF 1998

Section 1. Short Title and Table of Contents. This section provides for the short title, “Patient Protection Act of 1998” and a table of contents.

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Subtitle A—Patient Protections

Section 1001. Patient Access to Unrestricted Medical Care, Obstetric and Gynecological Care, and Pediatric Care.

Subsection (a). General. In general, this subsection amends section 503(b)(8) of Title I of the Employee Retirement Income Security Act of 1974 by adding a new Section 713, which follows.

Section 713. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric And Gynecological Care, Pediatric Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating physician specializing in such care, and the participant’s designated primary care provider is not such a specialist. Authorization or referral by a primary care provider must not be required for routine gynecological or obstetric care or for any of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric and gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine pediatric care, and requires the designation of a primary care provider, the parent or guardian of any plan beneficiary under 18 years of age may designate a participating physician who practices in pediatrics, if available, as the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans that have two or more options to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option.


Section 1002. Effective Date and Related Rules.

Subsection (a). In General. This subsection states that the amendments made by Subtitle A will apply with respect to plan years beginning on or after January 1 of the second calendar year following the enactment of the Act. The Secretary is also required to issue all necessary regulations before the effective date.

Subsection (b). Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle A, no enforcement action shall be taken against a plan or issuer for violating a requirement imposed by the amendments before the time implementing regulations are issued.

Subsection (c). Special Rule for Collective Bargaining Agreements. If a group health
plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsections (c), (d), and (e) of section 713 of ERISA as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement relating to the plan on or after January 1 of whatever year is later. Any amendment in the plan made solely to conform to requirements of this subtitle must not be treated as a termination of the collective bargaining agreement.

Subsection (d). Assuring Coordination. This subsection requires the Secretary of Labor, together with the Secretary of Health and Human Services to execute an interagency memorandum of understanding to ensure that regulations, rules, and interpretations are administered so as to have the same effect at all times, and that enforcement policies are coordinated to assign priorities and avoid duplication.

Subsection (e). Treatment of Religious Nonmedical Providers. Among other things, this section clarifies that nothing in this Act shall be construed to prevent a group health plan from include as covered providers religious nonmedical providers.

**Subtitle B—Patient Access to Information.**

Section 110. Patient Access to Information Regarding Plan Coverage. Managed Care Procedures, Health Care Providers, and Quality of Medical Care.

Subsection (a). In General. This subsection amends title I of subtitle B of title II of the Employee Retirement Income Security Act of 1974 by (1) redesignating section 111 as section 111, and (2) inserting after section 110 the following new section: 111. Disclosure by Group Health Plans.

Subsection (a). Disclosure Requirement. This subsection requires the administrator of each group health plan to ensure that the summary plan descriptions required under ERISA include the information described in subsections (b), (c), (d), and (e)(2)(A). Each health insurance issuer connected with a group health plan is also required to notify the participant or beneficiary of material modifications of plan documents or plan information. The summary plan description, summary of material modifications, and the actual plan provisions must be made available to participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required in subsection (a) includes a description of: (A) covered benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage for emergency medical care, the extent of access to urgent care centers, and definitions of terminology referring to emergency care including geographic locations; (C) any special disease management programs or programs for persons with disabilities and if such programs are voluntary and if benefits would differ significantly for participants in management; (iii) whether a specific drug or biological is included in the plan's formulary and procedures for waiver requests; (iv) the procedures and medically-based criteria used in an adverse coverage decision if the determination relates to medical necessity, an experimental treatment or technology; (v) the basis on which any preauthorization and utilization review requirement has resulted in a denial of coverage; (vi) the accreditation and licensing status of each health insurance issuer offering health insurance coverage in connection with the plan and of any utilization review organization utilized by the issuer or the plan, together with the name and address of the accrediting or licensing authority; (vii) the latest information available on request to the administrator or to plan participants and beneficiaries on a timely basis.

**Subsection C—New Procedures and Access to Care for Grievances Arising Under Group Health Plans.**

Section 1201. Special Rules for Group Health Plans.

Subsection (a). Section 303 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1133) is amended by adding at the end the following new subsections:
(1) Coverage Determinations. Every group health plan must provide notice in writing to a participant or beneficiary in accordance with this subsection with respect to requested benefits under the plan. The notice sets forth the specific reasons for the coverage decision and must be written in a manner that can be understood by the participant. The notice must inform the participant or beneficiary of their ability to file a written request for an internal review of the initial coverage decision (i.e., internal appeal) within 180 days after receipt of the notice. A notice must also be sent to the participant or beneficiary’s medical care provider in connection with the initial decision if the provider seeks reimbursement from the plan. A full and fair de novo review of the decision must be made by an appropriate named fiduciary who did not make the initial decision. Group health plans must also meet the additional requirements of this subsection.

(2) Time Limits for Making Initial Coverage Decisions for Benefits and Completing Internal Appeals. (A) Time Limits for Deciding Requests for Benefits. Requests for Advance Determination of Coverage, and Requests for Required Determination of Medical Necessity. (i) Initial Coverage Decisions. If a request for benefit payments, a request for advance determination of coverage, or a request for required determination of medical necessity is submitted to a group health plan in a reasonable form under the plan, the plan must issue in writing an initial coverage decision within 30 days of the filing completion date. Failure of the plan to issue a coverage decision will be treated as an adverse coverage decision, thus allowing for an internal appeal.

(ii) Internal Review of Initial Denials. Upon written request, a review by an appropriate named fiduciary (who pursuant to paragraph (3) must be a physician) must be issued within 30 days of the review filing date and must include a written decision affirming, reversing, or modifying the initial coverage decision setting forth the grounds for the decision. The decision is treated as the final decision of the plan except in the case of an adverse coverage decision with respect to a particular item or service that is excluded from coverage under the terms of the plan because the provision of such item or service does not meet the plan’s standards for medical appropriateness or necessity or would constitute experimental treatment or technology. The internal review shall be conducted by a physician who did not make the initial denial.

(iii) External Appeal. The participant may request external review in accordance with 42 U.S.C. 1395w-221, allowing for an external review.

(B) Limits on Reimbursable Advance Payments. The external review in connection with an adverse coverage decision is available subject to any requirement of the plan or the issuer for a payment in advance (unless due to other reasons) for payment in advance by the participant or beneficiary seeking review of an amount equal to $25, or if greater 10 percent of the cost of the medical care involved up to a maximum of $100. No payment may be required of a participant enrolled in a plan pursuant to a program under Medicaid (Title XIX of the Social Security Act) or under a State Children’s Health Insurance Program (Title XXVI of such Act). The payment is to be refunded if the recommendation under external review is to modify or reverse the internal review decision. If the recommendation under external review is to modify or reverse the internal review decision, such recommendation must be in writing, must be given to the plan, and the issuer and the patient is not disclosed to the expert. Under the second option, the independent expert must be selected by an independent expert peer review organization described in section 1862(b)(2) of the Social Security Act. Under the fourth option, the independent expert must be selected by an independent external review organization, an independent accredited teaching hospital. Under the third option, the independent expert must be selected by an independent peer review organization described in section 1862(b)(2) of the Social Security Act.
The term `advance determination of coverage', for purposes of this section, means a request for advance determination of medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

(D) Request for Advance Determination of Coverage. The term 'request for advance determination of coverage' means a request for an advance determination of coverage of medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

(E) Request for Expedited Advance Determination of Coverage. The term 'request for expedited advance determination of coverage' means a request for an expedited determination of coverage, in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

(F) Request for Expedited Determination of Medical Necessity. The term 'request for expedited determination of medical necessity' means a request for an expedited determination of medical necessity for medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided.

(G) Request for Expedited Determination of Medical Necessity. The term 'requests for expedited determination of medical necessity' means a request for expedited determination of medical necessity in any case in which the proposed medical care constitutes urgent medical care or emergency medical care.

(H) Urgent Medical Care. The term 'urgent medical care' means medical care in any case in which an appropriate physician has certified in writing that failure to provide the participant or beneficiary with such medical care within 48 hours can reasonably be expected to result in death of the participant or beneficiary, or the immediate, serious, and irreversible deterioration of the health of the participant or beneficiary which will significantly increase the likelihood of death, or irreparable harm.

(I) Emergency Medical Care. The term 'emergency medical care' means medical care in any case in which an appropriate physician has certified in writing that failure to immediately provide the care to the participant or beneficiary could reasonably be expected to result in placing the health of the participant or beneficiary in an emergency medical care or emergency medical care. The term 'emergency medical care' means medical care which is made by or on behalf of a participant or beneficiary before the medical care is provided, and which may be subject to exceptions under the plan for fraud or misrepresentation.

(J) Initial Decision Period. The term 'initial decision period' means a period of 30 days. In general, the calendar days specified in the various decision and review periods may be extended pursuant to regulations prescribed by the Secretary.

(K) Internal Review Period. The term 'internal review period' means a period of 30 days.

(L) Urgent Decision Period. The term 'urgent decision period' means a period of 10 days.

(M) Emergency Decision Period. The term 'emergency decision period' means a period of 72 hours.

(N) Specialty Decision Period. The term 'specialty decision period' means a period of 72 hours.

(O) Reconsideration Period. The term 'reconsideration period' means a period of 25 days. In cases involving urgent medical care, this term means the urgent decision period (generally, 10 days). In cases involving emergency medical care, this term means the emergency decision period (generally, 72 hours).
Subsection (a). Rules governing regulation of association health plans: This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I of ERISA (29 U.S.C. 1132).

Section 801. Association Health Plans. The term “association health plan” means a “group health plan” (which is defined in ERISA) that is offered by an association established to enable an employer or an association of employers to offer group health insurance coverage for such person based on their health status.

Section 802. Certification of Association Health Plans. This section establishes a procedure for the certification of association health plans by the applicable authority (a state authority or, if a state does not elect, the Secretary). The applicable authority shall grant certification only if such certification is administratively feasible, not adverse to the interests of the individuals covered under it, and protective of the rights and benefits of the individuals covered under the plan. In essence, this procedure has the same effect as requiring the provision in ERISA section 512(b)(1) to be implemented so as to enable association health plans to operate. A “class certification” procedure is established to speed the approval of plans with substantially equivalent health insurance coverage. An AHP that is certified must also meet the applicable requirements of Part B as described below.

Section 803. Amendments Relating to Sponsors and Boards of Trustees. This section establishes additional eligibility requirements for AHPs. The amendments must demonstrate that the arrangement’s sponsor has been in existence for a continuous period of at least 3 years for substantial purposes other than to provide coverage under a group health plan.

Subsection (b) also requires that the plan be operated, pursuant to a trust agreement, by a health insurance issuer before the date of the enactment to be the standard of review applicable immediately prior to enactment.

Subsection (c). Expedited Court Review. Section 502 of ERISA (29 U.S.C. 1132) is amended by adding the following new paragraph (4)(A):

1. A court in which it is demonstrated to the court by means of a certification by an appropriate physician that exhaustion of administrative remedies is not available under the facts and circumstances without undue risk of irreparable harm to the health of a participant or beneficiary, a civil action may be commenced without exhausting any review by the plan or by the participant or beneficiary to obtain appropriate equitable relief.

Subsection (d). Standard of Review Unaffected. The standard of review under section 502 ERISA shall continue on and after the date of the enactment to be the standard of review applicable immediately prior to enactment.

Subsection (e). Concurrent Jurisdiction. State courts have concurrent jurisdiction in actions arising under new sections 502(b)(1) and (a)(1)(A) for relief under subsection (c)(6).

Section 1202. Effective Date. Subsection (a). In General. The amendments made by this subtitle shall apply to grievances arising in plan years beginning on or after the first day of the second calendar year following the date of the enactment of this Act.

Subsection (b). Limitation on Enforcement Action. No enforcement action shall be taken against a group health plan or health insurance issuer before the date that final regulations are issued, if the plan or issuer has sought to comply in good faith with such regulations.

Subsection (c). Collective Bargaining Agreements. Any amendments made to a plan which are designed to provide a benefit described in subsection (a) shall not be treated as a termination of a collective bargaining agreement.

(1) under the option of fully-insured “health insurance coverage” offered by a health insurance issuer is made available to plan participants and beneficiaries, and

(2) whose sponsor of the plan meets the following conditions:

(1) the sponsor of an Association Health Plan (AHP) must be organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for at least annual meetings, as a trade association, an industry group (including an association of employers or association of employees), a small association or a small association of employers or employees, or a group of employers or employees.

In addition to the associations described above, certain other entities are eligible to seek certification as AHPs. These include franchise networks and multiemployer plans. Section 812 also makes eligible certain church plans voluntarily electing to come under the fiduciary, reporting, and actuarial standards contained in the subsection.

Section 802. Certification of Association Health Plans. This section establishes a procedure for the certification of association health plans by the applicable authority (a state authority or, if a state does not elect, the Secretary). The applicable authority shall grant certification only if such certification is administratively feasible, not adverse to the interests of the individuals covered under it, and protective of the rights and benefits of the individuals covered under the plan. In essence, this procedure has the same effect as requiring the provision in ERISA section 512(b)(1) to be implemented so as to enable association health plans to operate. A “class certification” procedure is established to speed the approval of plans with substantially equivalent health insurance coverage. An AHP that is certified must also meet the applicable requirements of Part B as described below.

Section 803. Amendments Relating to Sponsors and Boards of Trustees. This section establishes additional eligibility requirements for AHPs. The amendments must demonstrate that the arrangement’s sponsor has been in existence for a continuous period of at least 3 years for substantial purposes other than attending providing coverage under a group health plan. This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I of ERISA (29 U.S.C. 1132) is amended by adding the following new paragraph (4)(A):

Subsubsection (a). Rules governing regulation of association health plans: This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I of ERISA (29 U.S.C. 1132). The board of trustees must consist of individuals who are owners, officers, directors or employees of the employers who participated in the plan.

Section 804. Participation and Coverage Requirements. This section prohibits discrimination against eligible employers and employees by requiring that all employees associated with a plan be eligible for participation under the terms of the plan, that benefit options be actively marketed to all eligible members, and that eligible individual of such participants be excluded from enrolling in the plan because of health status. The legislation will not affect the individual health insurance market adversely inasmuch as the bill requires that no participating employer may exclude an employee from enrollment under an AHP by purchasing an individual policy of health insurance coverage for such person based on their health status.

Section 805. Other Requirements Relating to Plan Documents, Contribution Rates, and Options. This subsection adds a new Part 8 (Rules Governing Regulation of Association Health Plans) to Title I of ERISA (29 U.S.C. 1132). The board of trustees must develop rules and regulations in order to implement the provisions of this part and Part 8.

The rules also stipulate that association health plans must be allowed to design benefit options. Specifically, no provision of state law shall preclude an AHP or health insurance issuer from a state’s small group rating laws, the plan has at least 1,000 participants and beneficiaries if the plan does not consist solely of fully-insured health insurance coverage, and the plan meets such other requirements as may be set forth in regulations.

The rules must develop rules of operation and financial control based on a three-year plan of operation which is adequate to carry out the terms of the plan and to meet all applicable requirements of the code of ERISA. The board of trustees must consist of individuals who are owners, officers, directors or employees of the employers who participated in the plan.

Section 806. Maintenance of Reserves and Provisions for Solvency for Plans Providing Health Benefits in Addition to Health Insurance Coverage. This section requires AHPs to maintain reserves sufficient to cover the health insurance coverage provided by the plan.

Each plan must secure coverage from a state licensed insurer consisting of (1)
aggregate stop-loss insurance with an attachment point not greater than 125% of expected gross claims, (2) specific stop-loss insurance with an attachment point, as recommended by ERISA's qualified actuary, up to $200,000, and (3) to prevent insolvency, indemnification insurance for any claims which are excluded by the plan for the duration of the insolvency.

Section 811. Requirements for Application and Related Requirements. This section sets forth additional criteria which association health plans must meet to qualify for certification. An association health plan must obtain certification to a plan only if: (1) a complete application has been filed, accompanied by the filing fee of $5,000; and (2) all other terms of the application have been met (including financial, actuarial, reporting, participation, and such other requirements as may be specified by the applicable authority).

The application must include the following: (1) identifying information about the arrangement and the states in which it will operate; (2) data on the bonding amounts that will be met; (3) copies of all plan documents and agreements with service providers; (4) a funding report indicating that the reserve of $500,000 has been met, and that contribution rates will be adequate to cover obligations, and that a qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the applicable authority considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority.

Certified association health plans must notify the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

Section 808. Notice Requirements for Voluntary Termination. This section requires that an association health plan which offers benefit options which are not present or former employees (or their beneficiaries) of sponsoring employee organizations or other entities.

The notice must be filed with the applicable authority at least 60 days before the plan is expected to become effective. The notice must include the name and address of the plan and the sponsor, the purpose of the plan, and a description of the benefits offered by the plan. The notice must also include the name and address of any person or organization that will receive benefits under the plan, and the amount of the premium or contribution paid by each participant.

Section 813. Definitions and Rule of Construction. This section defines the following terms: "qualified actuary," health insurance coverage, health insurance issuer, health status-related factor, individual market, participating employer, qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the applicable authority considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority.

Certified association health plans must notify the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

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Certified association health plans must notify the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.

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Section 813. Definitions and Rule of Construction. This section defines the following terms: "qualified actuary," health insurance coverage, health insurance issuer, health status-related factor, individual market, participating employer, qualified actuary (a member in good standing of the American Academy of Actuaries or an actuary meeting such other standards the applicable authority considers adequate) has issued an opinion with respect to the arrangement's assets, liabilities, and projected costs; and (5) any other information prescribed by the applicable authority.

Certified association health plans must notify the applicable authority of any material changes in this information at any time, must file annual reports with the applicable authority, and must engage a qualified actuary.
Section 1305. Enforcement Provisions Relating to Association Health Plans. This section amends ERISA to establish enforcement provisions relating to association health plans. It also makes it unlawful for an employer working in arrangements: (1) willful misrepresentation that an entity is an exempted AHP or collectively-bargained arrangement may result in criminal fines. The section provides for the determination necessary in order to determine whether emergency medical care is necessary. The plan's emergency medical professional determines necessary to order emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act). These requirements apply to the extent the group health plan or health insurance issuer covers emergency medical care benefits (as defined in section 503(b)(8)(I) of ERISA as amended by this Act), except for items or services specifically excluded; and to items or services that are not essential or necessary to the plan's emergency medical facility, including routinely available ancillary services. This section does not prevent a group health plan or issuer from imposing cost-sharing requirements for emergency medical services so long as the cost-sharing is uniformly applied.

Subsection (c). Patient Access to Obstetric and Gynecological Care. If the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating provider or entity in such care, and the participant's designated primary care provider is such a specialist, authorization or referral by a primary care provider is not required. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for obstetric or gynecological care will be allowed.

Subsection (d). Patient Access to Pediatric Care. This subsection states that if the group health plan or health insurance issuer covers routine gynecological or obstetric care by a participating provider or entity in such care, the participant's designated primary care provider is such a specialist, authorization or referral by a primary care provider is not required. Ordering of other similar routine gynecological or obstetric care by such a participating specialist is treated as authorized by the primary care provider. Plan requirements relating to medical necessity or appropriateness for pediatric care will be allowed.

Subsection (e). Treatment of Multiple Coverage Options. This subsection requires plans to provide patient access to obstetric and gynecological care and pediatric care as defined in subsections (c) and (d) under each option. See Section (b). Effective Date and Related Rules.

In General. This subsection states that the amendments made by this Act, with respect to plan years beginning on or after January 1 of the second calendar year following the date of enactment of the Act, shall be effective as of such date. This subsection also grants the applicable authority under Part 8 to the Secretary of Health and Human Services to issue all necessary regulations before the effective date.

Limitation on Enforcement Actions. If the group health plan or health insurance issuer has sought to comply in good faith with the amendments of Subtitle A, no enforcement action shall be taken against a plan or issuer for violating a requirement imposed by the amendments before implementing regulations are issued.
provided under such coverage provided through the closed panel under the group health plan but are furnished exclusively by health care professionals who are not members of the closed panel. Exceptions are provided in subsection (c).

Subsection (c). Exceptions.
(1) Offering of non-panel option. Subsection (a) shall not apply with respect to a group health plan if the plan offers a coverage option that provides coverage for services that may be furnished by a class or classes of health care professionals who are not in a closed panel. This paragraph shall be applied separately to distinguishable groups of enrollees under the plan.

(2) Availability of coverage through a HealthMart. Subsections (a) and (b) shall not apply to a group health plan if the health insurance coverage made available through the HealthMart provides for coverage of the services of any class of health care professionals other than through a closed panel of professionals.

(3) Pre-existing coverage exemption.—Subsections (a) and (b) shall not apply to a health maintenance organization in a State in any case in which—

(A) the organization demonstrates to the applicable authority that the organization has made a good faith effort to obtain (but has failed to obtain) a contract between the organization and another health insurance issuer providing for the coverage option or supplemental coverage described in subsection (a) or (b), as the case may be, within the applicable service area of the organization, and

(B) the State requires the organization to receive such coverage through an indemnity insurer or otherwise, in order to offer such coverage option or supplemental coverage, respectively.

The applicable authority may require that the organization demonstrate that it meets the requirements of the previous sentence no more frequently than once every two years.

(4) Increased costs.—Subsections (a) and (b) shall not apply to a health maintenance organization if the organization demonstrates to the applicable authority, in accordance with regulations prescribed by the applicable authority, that on either a prospective or retroactive basis, the premium for the coverage option or supplemental coverage required to be made available under paragraph (a) exceeds by more than 1 percent the premium for the coverage consisting of services which are furnished through a closed panel of health care professionals in the class or classes involved. The applicable authority may require that the organization demonstrate such an increase no more frequently than once every two years. This paragraph shall be applied on an average per enrollee or similar basis.

(5) Collective bargaining agreements.—Subsections (a) and (b) shall not apply in connection with a group health plan if the plan is established or maintained pursuant to one or more collective bargaining agreements.

Subsections. For purposes of this section, the following definitions apply:

Coverage through closed panel. Health insurance coverage for a class of health care professionals shall be treated as provided through a closed panel of such professionals only if such coverage consists of coverage of items or services consisting of professionals services which are reimbursed for or provided only within a limited network of such professionals.

Health care professional. The term ‘health care professional’ has the meaning given such term in section 2706(e)(2).

Subsection (b). Effective Date. This subsection states that the amendments made by subsection (a) applies to coverage offered on or after January 1 of the second calendar year following the date of enactment of this Act.

Subtitle B—Patient Access to Information

Section 2001. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Care Providers, and Quality of Medical Care.

Subsection (a). In General. This subsection amends subtitle 2 of part A of title XXVII of the Public Health Service Act (as amended by title A of this title) by adding the following new Section 2707.

Section 2707. Patient Access to Information Regarding Plan Coverage, Managed Care Procedures, Care Providers, and Quality of Medical Care.

Subsection (a). Disclosure Requirement.
This subsection requires the administrator of each group health plan to ensure that the summary plan description required under ERISA section 102 contain the information described in subsections (b)(1), (c), (d), and (e)(2)(A).

Each health insurance issuer connected with a group health plan is also required to provide the necessary information to the administrator and participants and beneficiaries on a timely basis.

Subsection (b). Plan Benefits. The information required under subsection (a) includes a description of benefits categorized by the types of items and services and the types of health care professionals providing the items and services; (B) plan coverage established or maintained pursuant to section 2706(a)(2) of this title; (C) the extent to which the plan provides coverage for emergency services; and (D) if the plan provides coverage for health care professional from a defined set of health care professionals, a description of the facility’s own criteria used to determine whether a health care professional meets such health care professional from a defined set of health care professionals, information about the plan’s requirements for medical approval, and whether coverage for medical care can be limited or excluded based on utilization review.

Subsection (c). Access to Information Regarding Plan Coverage, Managed Care Procedures, Care Providers, and Quality of Medical Care.

Subsection (d). Definitions. For purposes of this section—

(1) the term ‘health care professional’ has the meaning given such term in section 2706(e)(2).

Subsection (e). Information Available on Request. Upon written request, a group health plan or health insurance issuer offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include any information that is required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions that are available to a participant or beneficiary no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary.

Subsection (f). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan that is the insurer under the plan or the health insurance issuer must provide information to a participant or beneficiary once during any given plan year following the date of enactment of this Act.

The information described in subsection (e)(2)(B) must include—

(vi) the name and address of the accrediting organization and of any utilization review organization that reviews medical necessity, an experimental treatment or technology and the basis on which any preauthorization and utilization review required under such coverage decision if the determination relates to medical necessity; and

(vii) the frequency and outcome of external review decisions requested by enrollees of the plan or plan participants.

Upon request, any health care professional treating a participant or beneficiary under a group health plan must provide the participant or beneficiary a description of the facility’s own criteria used to determine whether a health care professional meets such health care professional from a defined set of health care professionals, information about the plan’s requirements for medical approval, and whether coverage for medical care can be limited or excluded based on utilization review.

Subsection (g). Information Available on Request. (1) The term ‘health care professional’ has the meaning given such term in section 2706(e)(2).

Subsection (h). Information Available on Request. Upon written request, a group health plan or health insurance issuer offering coverage in connection with a group health plan must provide access to plan benefit information in electronic form. This information, in electronic format, must include any information that is required by section 104(b)(4) of ERISA, the latest summary plan description, summary of material modifications, and the actual plan provisions that are available to a participant or beneficiary no more than once a year, and a reasonable charge is permitted which may be subject to a maximum amount set by the Secretary.

Subsection (i). Access to Information Relevant to the Coverage Options under which the Participant or Beneficiary is Eligible to Enroll. Upon written request, and in connection with a period of enrollment, the group health plan that is the insurer under the plan or the health insurance issuer must provide information to a participant or beneficiary once during any given plan year following the date of enactment of this Act.

The information described in subsection (e)(2)(B) must include—

(vi) the name and address of the accrediting organization and of any utilization review organization that reviews medical necessity, an experimental treatment or technology and the basis on which any preauthorization and utilization review required under such coverage decision if the determination relates to medical necessity; and

(vii) the frequency and outcome of external review decisions requested by enrollees of the plan or plan participants.
Section (g). Advance Notice of Changes in Drug Formularies. This subsection requires the plan to inform participants not later than 30 days before the effective date of any change in the drug plan, or the drug formulary, including a change in the list of drugs covered by the plan, or the drug formulary, including a change in the list of drugs covered by the plan, or the manner in which the health insurance issuer will change it. Subsection (a). In General. Amendments made by subtitle B—Patient Access to Information, and Consumer Empowerment Act of 1998. The short title of this subtitle is the "Health Care Consumer Empowerment Act of 1998." Section 2202. Expansion of Consumer Choice through HealthMarts. Subsection (a). In General. This section amends the Public Health Service Act by adding the following new title to the same chapter: TITLES XIII—HEALTHMARTS Section 2801. Definition of HealthMart. Subsection (a). In General. This subsection defines the "HealthMart" as a legal entity that meets several requirements specified in the Act. In short, the HealthMart is an organization that offers health benefits within a defined geographic area (or areas), provides administrative services to purchasers, and disseminates and files information. Requirements are described below.

(1) Organization. The HealthMart is a private, nonprofit organization operated under the direct control of an insurance issuer. The board is composed of representatives from: small employers, employees of small employers, individuals who may be physicians, other health care professionals, health care facilities, or any combination thereof, and entities that write or administer health benefits coverage (such as insurance companies, health maintenance organizations, and licensed provider-sponsored organizations). There must be at least 2 board members from each group and there must be the same number from each group. (2) Offering health benefits coverage. The HealthMart, in conjunction with health insurance issuers that offer health benefits coverage through the HealthMart, must make available health benefits coverage at rates (including employer’s and employee’s share) that are established by the health insurance issuer on a policy or product specific basis and that may vary only as permissible under State law. A HealthMart is deemed to be a group health plan for purposes of current law, existing section 702 of the Employee Retirement Income Security Act of 1974, section 2702 of this Act, and section 9802(b) of the Internal Revenue Code. These provisions are updated in 2001, and there is a variation of required premiums for health benefits coverage, for similarly situated individuals, on the basis of health status-related factors.

Nondiscrimination in coverage offered. The HealthMart may not offer health benefits coverage to an eligible employee in a geographic area (as specified in (3) below) unless the same coverage is offered to all such employees in the same geographic area. No financial underwriting. The HealthMart provides health benefits coverage only through contracts with health insurance issuers and does not assume insurance risk with respect to any plan or coverage. Minimum coverage. Requires the HealthMart to maintain at least 10 purchasers and 100 members by the end of the first year following the date of the enactment of this Act, and section 9802(b) of the Internal Revenue Code of 1986, section 2702 of this Act, and section 702 of the Employee Retirement Income Security Act of 1974, and titles XXI and XXII of this Act, as long as both employers are purchasers in the HealthMart.

(2) Alternative process for approval of health benefits coverage in case of discrimination or delay. The requirement for health benefit coverage offered through HealthMarts be approved or otherwise permitted to be offered under State law. If the health benefit coverage offered through HealthMarts be approved or otherwise permitted to be offered under State law, the health insurer must file an application for approval with the State. The State shall not take more than 90 days from the date of receipt of the application to deny or delay approval of the application. Nothing in this title shall be construed as preventing a plan or product from applying for approval of the application for approval of the plan or product.

(3) Examples of types of coverage. The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following (if it is covered by the applicable State standards described above and (A)(ii) of subsection (b). (1) Compliance with consumer protection requirements. Requires that any health benefit coverage offered through a HealthMart must be underwritten by a health insurance issuer on a policy or product specific basis and includes a review of consumer protection requirements, procedures, or standards for such a product or product category. Requires the HealthMart to collect and disseminate information or other information by the State under which the State agrees to the HealthMart to file information that demonstrates the HealthMart’s compliance with the applicable requirements of this title with the applicable Federal authority, or in accordance with any procedure established under section 2803(a), to file with the State such information as the State may require to demonstrate the HealthMart’s compliance with the applicable State standards described above and (A)(ii) of subsection (b). Requires that such monitoring and enforcement be conducted by the State in the same manner as the State enforces such standards with other health insurance issuers and plans, without discrimination based on the type of issuer to which the standards apply. Requires that such an agreement must specify or establish mechanisms which cannot be undertaken, while not extending the time required to review and process applications for waiver.

(3) Examples of types of coverage. The health benefits coverage made available through a HealthMart may include, but is not limited to, any of the following (if it meets the other applicable requirements of this title): coverage through a health maintenance organization, coverage in connection with a preferred provider organization, coverage in connection with a licensed provider-sponsored organization, indemnity coverage through an insurance company, coverage for employees of the Federal government in connection with a health flexible spending account, coverage that includes
a point-of-service option, coverage offered in conjunction with community health centers (as defined in section 330B(e) of the PHS Act, as amended by this bill) or any combination (other than those specifically relating to an item described in subsection (a));

—The application of premium taxes and required payments for guaranty funds or for contributions to high-risk pools;

—The application of fair marketing requirements (other than those specifically relating to an item described in subsection (a));

—The application of requirements relating to the adjustment of rates for health insurance coverage.

Subsection (b). Treatment of Benefit and Grouping Requirements. Provides that State laws are superseded and does not apply to health benefits coverage made available through a HealthMart, insofar as they relate to any of the following:

—Requirements for health benefits coverage offered through a HealthMart, including (but not limited to) requirements relating to coverage of specific services or conditions, or the amount, duration, or scope of benefits, but not including requirements to the extent required to implement title XXVII of the PHS Act or other Federal law and to the extent the requirement prohibits an exclusion of a specific disease from such coverage;

—Requirements (construed to be as fictitious group laws) relating to grouping and similar requirements for such coverage,—any other requirements (including limitations on compensation arrangements) that, directly or indirectly, preclude (or have the effect of precluding) the offering of such coverage through a HealthMart, if the HealthMart meets the requirements of this title.

Any State law or regulation relating to the composition or organization of a HealthMart is deemed to be a plan administrator for purposes of applying parts 1 and 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974. The HealthMart shall be treated as such a plan and the enrollees shall be treated as participants and beneficiaries for purposes of applying such provisions pursuant to this subsection.


Subsection (e). Application of Rules for Network Plans and Financial Capacity. The regulation of underwriters of health coverage, including licensure and solvency requirements,

—Subsection (a). Authority of States. Provides that nothing in this section should be construed as preempting State laws relating to the following:

—Regulation of underwriters of health coverage, including licensure and solvency requirements;
HealthMarts of health benefits coverage that is only made available through a HealthMart under this section because of the application of subsection (b). Subsection (c). Application to Guaranteed Renewability Requirements in Case of Discontinuation of an Issuer. For purposes of applying section 7212 in the case of health insurance coverage offered by a health insurance issuer through a HealthMart, if the contract between the HealthMart and the issuer is terminated and the HealthMart continues to make available any health insurance coverage after the date of such termination, the following rules apply:

Renewability: The HealthMart shall fulfill the obligation under such section of the issuer renewing and continuing in force coverage by offering purchasers (and members and eligible dependents) all available health benefits coverage that would otherwise be available to similarly-situated purchasers and members from the remaining participating health insurance issuers in the same manner as would be required of issuers under section 7212(c).

Subsection (c). Certification of provision of group health insurance coverage. The term `applicable Federal authority' means the Secretary of Health and Human Services. E1412 July 23, 1998

Subsection (d). Establishment of solvency standards. The Secretary is required to establish such standards as would be required of issuers under section 2801(a). Subsection (a). Applicable Federal authority. The term `applicable Federal authority' means the Secretary of Health and Human Services. E1412 July 23, 1998

Subsection (b). Assumption of full financial risk. The community health organization, in order to qualify for a waiver, must assume full financial risk on a prospective basis to meet the provisions of chapter 8 of title 5, relating to certain Federal employees and certain group health plans for certain employees. Title 49 or titles XXVII (relating to requirements of the Secretary of Health and Human Services and members of Congress) and XXVII (relating to requirements of the Secretary of Health and Human Services) of subtitle B of title I of the Employee Retirement Income Security Act of 1974 or titles XXII (relating to requirements for certain group health plans for certain state and local employees) and XXVI (relating to requirements relating to health insurance coverage) of this Act. Section 2003. Administration. Subsection (a).

Subsection (a). In General. Provides that the applicable federal authority must administer this title through the division established under subsection (b) of this section, and is authorized to issue such regulations as may be required to carry out this title. These regulations shall be subject to Congressional review under section 508 of chapter 8 of title 5, United States Code. Provides that the applicable Federal authority may incorporate the process of advance rule-making and use with respect to health plans and members of Congress. Title 49 or titles XXVII (relating to requirements of the Secretary of Health and Human Services and members of Congress) and XXVII (relating to requirements relating to health insurance coverage) of this Act. Section 2003. Administration. Subsection (a).

Subsection (b). Administration Through Health Care Marketplace Division. The applicable Federal authority shall be considered an agent of the applicable Federal authority for purposes of applying section 7212(e).

Subsection (h). Construction in Relation to Certain Other Laws. Nothing in this title shall be construed as modifying or affecting any provision of, or relating to, any other Federal statute or any provision of title 59 of the United States Code. Provides that the applicable Federal authority may, after notice and opportunity for public hearing, issue such regulations as may be required to issue such regulations as may be required to ensure that the applicable Federal authority carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title. In addition to other responsibilities provided under this title, such Division is responsible for overseeing the operation of HealthMarts under this title, and the periodic submission of reports to Congress on the performance of HealthMarts under this title under this section.

Subsection (c). Periodic Reports. Requires that the applicable Federal authority submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate Federal agencies. Such authority may provide for the production of such reports through one or more contracts with appropriate Federal agencies. The Secretary is required to report to the Committee on Commerce and the Senate Committee on Labor and Human Resources, by December 31, 2002, on whether the waiver process should be continued after December 31, 2003.

Subsection (b). Assumption of full financial risk. The community health organization, in order to qualify for a waiver, must assume full financial risk on a prospective basis to meet the provisions of chapter 8 of title 5, relating to certain Federal employees and certain group health plans for certain employees. Title 49 or titles XXVII (relating to requirements of the Secretary of Health and Human Services and members of Congress) and XXVII (relating to requirements relating to health insurance coverage) of this Act. Section 2003. Administration. Subsection (a).

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Subsection (a). In General. Provides that the applicable federal authority must administer this title through the division established under subsection (b) of this section, and is authorized to issue such regulations as may be required to carry out this title. These regulations shall be subject to Congressional review under section 508 of chapter 8 of title 5, United States Code. Provides that the applicable Federal authority may incorporate the process of advance rule-making and use with respect to health plans and members of Congress. Title 49 or titles XXVII (relating to requirements of the Secretary of Health and Human Services and members of Congress) and XXVII (relating to requirements relating to health insurance coverage) of this Act. Section 2003. Administration. Subsection (a).

Subsection (b). Administration Through Health Care Marketplace Division. The applicable Federal authority shall be considered an agent of the applicable Federal authority for purposes of applying section 7212(e).

Subsection (h). Construction in Relation to Certain Other Laws. Nothing in this title shall be construed as modifying or affecting any provision of, or relating to, any other Federal statute or any provision of title 59 of the United States Code. Provides that the applicable Federal authority may, after notice and opportunity for public hearing, issue such regulations as may be required to ensure that the applicable Federal authority carry out its duties under this title through a separate Health Care Marketplace Division, the sole duty of which (including the staff of which) shall be to administer this title. In addition to other responsibilities provided under this title, such Division is responsible for overseeing the operation of HealthMarts under this title, and the periodic submission of reports to Congress on the performance of HealthMarts under this title under this section.

Subsection (c). Periodic Reports. Requires that the applicable Federal authority submit to Congress a report every 30 months, during the 10-year period beginning on the effective date of the rules promulgated by the applicable Federal authority to carry out this title, on the effectiveness of this title in promoting coverage of uninsured individuals. Such authority may provide for the production of such reports through one or more contracts with appropriate Federal agencies. Such authority may provide for the production of such reports through one or more contracts with appropriate Federal agencies. The Secretary is required to report to the Committee on Commerce and the Senate Committee on Labor and Human Resources, by December 31, 2002, on whether the waiver process should be continued after December 31, 2003.
The Secretary, after consultation with the National Association of Insurance Commissioners, the American Academy of Actuaries, organizations representative of Medicare beneficiaries, interested parties, and other interested parties, must: (1) publish a notice in the Federal Register of the rulemaking process within 45 days of enactment of this Act; (2) establish a target date, to be announced after the committee is formed and nominate a facilitator not later than ten days after appointment of the committee. The Secretary must provide for publication of a negotiated rulemaking committee prior to January 1, 1999. The January 1, 1999, the committee reports that it is unlikely that it will reach consensus within one month of the target date. If the committee is not terminated, then it must report a proposed rule not later than one month before the target date of publication. The Secretary must publish a rule not later than the target date of publication that will be effective on an interim basis and include at least a 60-day public comment period. The Secretary must provide for consideration of comments on such rule not later than one year after the target date.

Section 3001. Patient Access to Unrestricted Medical Advice, Emergency Medical Care, Obstetric and Gynecological Care, Pediatrist and Gynecological Care.

Subsection (a). Patient Access to Unrestricted Medical Advice. This subsection states that a group health plan may not prohibit or restrict health care professionals under contract from advising participants or beneficiaries about their health status or treatment, even if benefits for such care or treatment are not covered by the plan. Health care professional is defined as a physician (section 1861(r) of the Social Security Act) or other health care professional whose services are provided under the group health plan.

Subsection (b). Emergency Medical Care. This subsection states that a group health plan may not prohibit or restrict the delivery of emergency medical care, provided that the plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsection (b) and (c)) and provisions relating to the Health Care Payment Administration Act (section 503(b) of the Internal Revenue Code of 1986 (as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement applicable to the plan before January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must be terminated upon the termination of the collective bargaining agreement.

Subsection (c). Emergency Medical Care. This subsection states that a group health plan may not prohibit or restrict health care professionals from delivering emergency medical care, provided that the plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsection (b) and (c)) and provisions relating to the Health Care Payment Administration Act (section 503(b) of the Internal Revenue Code of 1986 (as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement applicable to the plan before January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must be terminated upon the termination of the collective bargaining agreement.

Subsection (d). Plan Benefits. The information required under subsection (a) includes a description of: (A) covered benefits categorized by the types of items and services; (B) whether coverage for medical care can be limited or denied based on a written policy or prior approval requirements; (C) any lifetime, annual, or other period limitations on coverage, categorized by types of benefits; (D) any limitations or exclusions for custodial care; (E) experimental treatment or technology; or (F) failure to meet the plan’s requirements for medical appropriateness or necessity; (G) coverage of second or subsequent opinions; (H) whether referral from a primary care provider is required for specialty care; (I) whether the plan may require a participating health care professional from a defined set of providers; restrictions on coverage of emergency services; and (J) any financial responsibility of participants or beneficiaries for emergency services.

Subsection (e). Participant’s Financial Responsibility for Services. The summary plan description must also explain the participant’s financial responsibility for payment of premiums, co-insurance, copayments, deductibles, and other amounts paid under the plan. Whether the plan is maintained pursuant to one or more collective bargaining agreements ratified before the date of enactment of this Act, the provisions relating to patient access (subsection (b) and (c)) and provisions relating to the Health Care Payment Administration Act (section 503(b) of the Internal Revenue Code of 1986 (as added by this subtitle) will not apply before the date of termination of the last collective bargaining agreement applicable to the plan before January 1, 2001, which ever is later. Any amendment in the plan made solely to conform to requirements of this subtitle must be terminated upon the termination of the collective bargaining agreement.
must explain the procedures and time frames for coverage decisions and internal and external review.

Subsection (e). Information Available on Request. Upon written request, a group health plan offering coverage in connection with a group health plan must provide access to information maintained by the plan or health insurance issuer. The information described in clauses (i), (ii), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

Subsection (g). Advance Notice of Changes in Drug Formulary. Plans must inform participants not later than 30 days before the effective date of any exclusion of a specific drug or biological from any drug formulary used by the plan for the treatment of a chronic illness or disease.

Subsection (b). Clerical Amendment. This subsection amends sections 3202, Effective Date.

Subsection (a). In General. Amendments made by this section to the subtitle of this subchapter apply to plans whose year begins after the date of the enactment of this section.

Summary description of the types of information available on request must be included in the summary plan description made available to participants and beneficiaries. (i), (iii), (vi), (vii), and (viii) of subsection (e)(2)(B).

Subsection (d). All Employers May Offer MSAs. The legislation removes the current restriction that only small employers may offer MSAs.

Subsection (c). InCREASE IN AmOUNT OF DeDUCIBLE AlLOwABLE foR MSAs. The legislation raises the deductible limit from $1,500 to $1,000 in the case of single coverage.

Subsection (b). Preemption. This subsection specifies that the new provisions do not preempt State law to the extent that the provisions are inconsistent with the new requirements.

Subsection (a). Applicability. This subsection specifies that the new provisions apply to any health care liability action brought in any State or federal court.

Subsection (c). Effect on Sovereign Immunity and Choice of Law or Venue. This subsection specifies that in the case of any action under which the new provisions apply, and which is brought in federal court, the amount of economic loss, punitive damages, and attorneys fees or costs, are not increased by the determination under the Foreign Sovereign Immunities Act of 1976, preempt State choice-of-law rules with respect to claims brought by a foreign nation or citizen, or affect the right of any court to transfer venue.

Subsection (d). Amount in Controversy. This subsection specifies that in the case of any action under which the new provisions apply, and which is brought in federal court, the amount of economic loss, punitive damages, and attorneys fees or costs, are not increased by the determination under the Foreign Sovereign Immunities Act of 1976, preempt State choice-of-law rules with respect to claims brought by a foreign nation or citizen, or affect the right of any court to transfer venue.

Subsection (e). Federal Court Jurisdiction Not Established on Federal Question Grounds. This subsection specifies that nothing in the new provisions is to be construed as establishing any new jurisdiction in federal courts over health care liability actions.
of punitive damages (to the extent allowed under State law) only if the claimant establishes by clear and convincing evidence that the harm suffered was the result of conduct that was either specifically intended to cause harm or that manifested a conscious flagrant indifference to the rights or safety of others.

The subsection applies to any health care liability action brought in any federal or state court on any theory where punitive damages are sought. It does not create a cause of action for punitive damages. Further, it does not preclude any State or Federal law to the extent that such law would further limit punitive damage awards.

The subsection permits either party to request a separate proceeding (bifurcation) on the issue of whether punitive damages should be awarded and in what amount. If a separate proceeding is requested, a claim for damages related only to the claim of punitive damages (as determined under state law) is inadmissible in any proceeding to determine whether actual damages should be awarded.

The subsection generally prohibits the award of punitive damages against a manufacturer or product seller of a drug or medical device. The prohibition applies in a case where drug or medical device liability is imposed because of the sale or use of a drug or medical device, including services related to the delivery of services in the stream of commerce. The term also includes persons who engage in the delivery of services in the stream of commerce. The term does not include: (i) a seller or lessor of real property; (ii) a provider of health care services or the use of a product (rather than lump sum) payment in any case if the patient is incompetent, against the wishes of the patient (or the patient’s guardian), on the basis of the patient’s present or predicted age, disability, degree of medical dependency or quality of life.

Subsection (e) Limitation on Reopening. The subsection applies to any health care liability action brought in any federal or state court on any theory where punitive damages are sought. It does not create a cause of action for punitive damages. Further, it does not preclude any State or Federal law to the extent that such law would further limit punitive damage awards.

The subsection specifies that a defendant who acts only in a financial capacity to provide (or the failure to provide or reasonably likely to be provided in the future to or on behalf of a claimant as a result of injury or wrongful death pursuant to a valid insurance policy, plan, contract, or other programs.

Drug has the meaning given the term under the Federal Food, Drug and Cosmetic Act.

Non-economic damages means damages resulting from injury to the extent recovery for such loss is allowed under state law. The term includes pain and suffering, inconvenience, emotional distress, medical anguish, loss of consortium, injury to reputation, humiliation, and other nonpecuniary loss.

Person means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including an entity.

Product seller means a person who (in the course of a business conducted for that purpose) sells, distributes, rents, leases, prepares, blends, packages, labels, or is otherwise involved in placing a product in the stream of commerce. The term also includes persons who engage in the delivery of services in the stream of commerce.
Section 403. Alternative Dispute Resolution.

The subsection requires that any system tested to resolve health care liability actions or claims must include provisions consistent with the requirements, including proceeding to a joint trial and including the denial of damages.

Section 404. Reporting on Fraud and Abuse Enforcement Activities. This subsection requires the General Accounting Office to:

(i) monitor the compliance of the Department of Justice and all United States Attorneys with the guidelines entitled "Guidelines on the Use of the False Claims Act in Civil Health Care Matters" by the Department on June 3, 1998, including any revisions to that guideline, and

(ii) monitor the compliance of the Office of the Inspector General of the Department of Health and Human Services with the protocols and guidelines entitled "National Project Protocols—Best Practice Guidelines" issued by the Inspector General on June 3, 1998, including any revisions to such protocols and guidelines.

Section 409. Title V—Confidentiality of Health Information

Section 501. Confidentiality of Protected Health Information.

Section 501. In General. The section amends Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) by adding the following text:

Part D—Confidentiality of Protected Health Information

Section 1181. Inspection And Copying of Protected Health Information.

Subsection (a). In General. The section generally authorizes, subject to the succeeding provision, a health care provider, health plan employer, health or life insurer, or educational institution to make available to a requesting individual (or a health care provider designated by the individual) his or her protected health information for inspection and copying.

Subsection (b). Access Through Originating Provider. Protected health information created by an originating provider and subsequently received by another health care provider or health plan as part of treatment or payment activities shall be made available for inspection and copying as provided in this section through the originating provider, rather than the receiving health care provider or health plan, unless the originating provider does not maintain the information.

Subsection (c). Investigational Information. Health information created as part of the requesting individual's participation in a clinical trial monitored by an institutional review board established pursuant to federal regulations adopted under the Public Health Service Act (42 U.S.C. 300e-1(b)) and Common Rule notice (56 Fed. Reg. 28003) shall be provided in response to a subsection (a) request only by the entity, in a manner consistent with such regulations.

Subsection (d). Other Exceptions. Unless ordered by a court of competent jurisdiction, the requesting individual shall not be required to grant the request if disclosure could reasonably be expected to endanger the life or physical safety, or cause substantial harm to any individual, or if the information has been compiled principally in anticipation of or for use in a civil, criminal, or administrative proceeding conducted by or under the authority of a Federal, State, or local government agency.

Subsection (e). Denial of Request For Inspection or Copying. If the recipient of a subsection 1181(a) request denies the request, the requesting individual may file an appeal to the recipient, and in writing of the reasons for the denial, the availability of procedures for further review of the denial, and the individual's right to file a concise statement setting forth the request.

Subsection (f). Statement Regarding Request. If the request has not resulted in a concise statement pursuant to subsection 1181(e), any subsequent disclosure of that individual's protected health information shall include a statement concerning the statement and may include a concise statement of the reasons for the denial of the request for inspection and copying.

Subsection (g). Procedures. A health care provider, health plan employer, health or life insurer, or educational institution providing access to protected health information for inspection and copying under this section, may prescribe appropriate procedures and may require a requesting individual to pay reasonable costs associated with such inspection and copying.

Subsection (h). Inspection and Copying of Inpatient Portion. A health care provider, health plan employer, health or life insurer, or educational institution shall establish, maintain, and fulfill the requirements of a model notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics, shall develop and disseminate, not later than 6 months after the date of the enactment of the Access, Affordability, and Accountability Patient Protection Act of 1998, model notices of confidentiality practices for the exercise of an individual's rights with respect to protected health information, the intended uses and disclosures of such information, the procedures established for the exercise of an individual's rights with respect to protected health information, the procedures established for obtaining copies of the notice.

Subsection (i). Model Notice. The Secretary of Health and Human Services shall, after notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics, shall develop and disseminate, not later than 6 months after the date of the enactment of the Access, Affordability, and Accountability Patient Protection Act of 1998, model notices of confidentiality practices for the exercise of an individual's rights with respect to protected health information, the intended uses and disclosures of such information, the procedures established for the exercise of an individual's rights with respect to protected health information, the procedures established for obtaining copies of the notice.

Subsection (j). Rules Governing Agents. An agent of a health care provider, health plan employer, health or life insurer, or educational institution shall not be required to fulfill the requirements of this section.

Subsection (k). Notice of Confidentiality Practices. The subsection requires that any system tested to resolve health care liability actions or claims is not required to grant the request if disclosure could reasonably be expected to endanger the life or physical safety, or cause substantial harm to any individual, or if the information has been compiled principally in anticipation of or for use in a civil, criminal, or administrative proceeding conducted by or under the authority of a Federal, State, or local government agency.

Subsection (l). Denial of Request For Inspection or Copying. If the recipient of a subsection 1181(a) request denies the request, the requesting individual may file an appeal to the recipient, and in writing of the reasons for the denial, the availability of procedures for further review of the denial, and the individual's right to file a concise statement setting forth the request.

Subsection (m). Statement Regarding Request. If the request has not resulted in a concise statement pursuant to subsection 1181(e), any subsequent disclosure of that individual's protected health information shall include a statement concerning the statement and may include a concise statement of the reasons for the denial of the request for inspection and copying.

Subsection (n). Procedures. A health care provider, health plan employer, health or life insurer, or educational institution providing access to protected health information for inspection and copying under this section, may prescribe appropriate procedures and may require a requesting individual to pay reasonable costs associated with such inspection and copying.

Subsection (o). Inspection and Copying of Inpatient Portion. A health care provider, health plan employer, health or life insurer, or educational institution shall establish, maintain, and fulfill the requirements of a model notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics, shall develop and disseminate, not later than 6 months after the date of the enactment of the Access, Affordability, and Accountability Patient Protection Act of 1998, model notices of confidentiality practices for the exercise of an individual's rights with respect to protected health information, the intended uses and disclosures of such information, the procedures established for the exercise of an individual's rights with respect to protected health information, the procedures established for obtaining copies of the notice.

Subsection (p). Model Notice. The Secretary of Health and Human Services shall, after notice and opportunity for public comment, and based on the advice of the National Committee on Vital and Health Statistics, shall develop and disseminate, not later than 6 months after the date of the enactment of the Access, Affordability, and Accountability Patient Protection Act of 1998, model notices of confidentiality practices for the exercise of an individual's rights with respect to protected health information, the intended uses and disclosures of such information, the procedures established for the exercise of an individual's rights with respect to protected health information, the procedures established for obtaining copies of the notice.
Section 1187. Civil Penalties.

Subsection (a). Violation. A person determined by the Secretary to have substantively and materially failed to comply with any provision of this part or any other penalty that may be imposed: (1) in the case of a violation related to section 1181 or 1182, a civil penalty up to $500 for each instance of noncompliance for more than $30,000 for each violation, but not to exceed $50,000 for all violations of an identical requirement or prohibition during the calendar year; (2) for violations of sections 1183, 1184, or 1185, to a civil penalty up to $10,000 for each violation, but not to exceed $50,000 for all violations of an identical requirement or prohibition during the calendar year; or (3) in a case where the Secretary finds that violations occur with such frequency as to constitute a general business practice, to a civil penalty of not more than $100,000.

Subsection (b). Prohibition on the Imposition of Penalties. Section 1129A, other than subsections (a) and (b) and the second sentence of subsection (f) of that section, shall apply to the imposition of a civil or monetary penalty under this section in the same manner as such provisions apply with respect to the imposition of a penalty under section 1129A.

Section 1188. Definitions. The bill defines the following terms:

- Agent means a person, including a contractor, who represents and acts for the individual who is the subject of such information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of (a) a person who is licensed, certified, registered, or otherwise authorized by federal or state law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession; (b) any person who is a health plan or plan sponsor or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; (c) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (d) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (e) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (f) any person who is a health care service provider or plan, including any hospital or medical service plan, dental or other health service plan, or a health plan that maintains protected health information as part of conducting health care operations.

- Disclose means to release, transfer, provide access to, or otherwise divulge protected health information other than to an individual who is the subject of such information.

- Educational institution means an institution or place accredited or licensed for purposes of providing for instruction or education, including an elementary school, secondary school, or institution of higher learning, a college, or an assemblage of colleges operated for business, non-profit educational purposes.

- Employer means the definition used under ERISA, except that such term is required to include only employers of two or more employees.

- Health care means: (a) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, including appropriate assistance with disease or symptom management, counseling, services or procedures with respect to the psychological or physical condition of an individual or affecting the structure or function of the human body or any part of the human body, including the banking of blood, sperm, organs, or any other tissue; or (b) any sale or dispensing, pursuant to a prescription or medical order, of a drug, device, equipment, or other health care related item to an individual.

- Health care provider means services, provided directly by or on behalf of a health plan or health care provider or by its agent, for any of the following purposes: (a) coordinating health care, including health care management of the individual through risk assessment, case management, and disease management; (b) conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development and improvement, and health promotion; and (c) carrying out utilization review activities described in subparagraphs (a) and (b) of section 1862(a)(10) and subsections (b) and (c) of section 1138 of the Public Health Service Act.

- Health care provider means a provider who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of (a) a person who is licensed, certified, registered, or otherwise authorized by federal or state law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession; (b) any person who is a health plan or plan sponsor or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; (c) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (d) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (e) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (f) any person who is a health care service provider or plan, including any hospital or medical service plan, dental or other health service plan, or a health plan that maintains protected health information as part of conducting health care operations.

- Health care provider means services, provided directly by or on behalf of a health plan or health care provider or by its agent, for any of the following purposes: (a) coordinating health care, including health care management of the individual through risk assessment, case management, and disease management; (b) conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development and improvement, and health promotion; and (c) carrying out utilization review activities described in subparagraphs (a) and (b) of section 1862(a)(10) and subsections (b) and (c) of section 1138 of the Public Health Service Act.

- Health care provider means a provider who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of (a) a person who is licensed, certified, registered, or otherwise authorized by federal or state law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession; (b) any person who is a health plan or plan sponsor or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; (c) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (d) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (e) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (f) any person who is a health care service provider or plan, including any hospital or medical service plan, dental or other health service plan, or a health plan that maintains protected health information as part of conducting health care operations.

- Health care provider means services, provided directly by or on behalf of a health plan or health care provider or by its agent, for any of the following purposes: (a) coordinating health care, including health care management of the individual through risk assessment, case management, and disease management; (b) conducting quality assessment and improvement activities, including outcomes evaluation, clinical guideline development and improvement, and health promotion; and (c) carrying out utilization review activities described in subparagraphs (a) and (b) of section 1862(a)(10) and subsections (b) and (c) of section 1138 of the Public Health Service Act.

- Health care provider means a provider who with respect to a specific item of protected health information, receives, creates, uses, maintains, or discloses the information while acting in whole or in part in the capacity of (a) a person who is licensed, certified, registered, or otherwise authorized by federal or state law to provide an item or service that constitutes health care in the ordinary course of business, or practice of a profession; (b) any person who is a health plan or plan sponsor or any other privately-sponsored program that directly provides items or services that constitute health care to beneficiaries; (c) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (d) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (e) a public or private health plan or plan sponsor that directly provides items or services that constitute health care to beneficiaries; (f) any person who is a health care service provider or plan, including any hospital or medical service plan, dental or other health service plan, or a health plan that maintains protected health information as part of conducting health care operations.
in any form or medium, and that (a) is created or received by a health care provider, health plan, health oversight agency, public health authority, employer, or life insurer, or educational institution; (b) relates to past, present, or future physical or mental health or condition of an individual (including individual's family and their components); (c) is derived from the provision of health care to an individual or payment for the provision of health care to an individual; and (d) is not nonidentifiable health information.

State includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

Treatment means the provision of health care by a health care provider.

Writing means writing either in a paper-based, computer-based, or electronic form, including electronic signatures.

Subsection (b). Enforcement of Provisions Through Conditions of Participation. This subsection amends section 1842(h) of the Social Security Act to permit the Secretary to refuse to enter into an agreement with a physician or supplier, or to terminate or refuse to renew an agreement, if the physician or supplier is found to have violated the confidentiality of protected health information as established by the bill. This subsection also amends sections 1852(h), 1866(a)(1), and 1871(k)(4) of the Social Security Act to require that Medicare+Choice organizations, Medicare providers, and Health Maintenance Organizations with risk-sharing contracts under Medicare comply with the confidentiality of protected health information provisions established by the bill.

Subsection (c). Conforming Amendments. This subsection provides conforming amendments modifying the title heading of Title XI of the Social Security Act to read as follows: "Title XI — General Provisions, Peer Review, Administrative Simplification, and Confidentiality of Protected Health Information". This subsection also amends section 306(k)(5) of the Public Health Service Act to require the National Committee on Vital and Health Statistics to study the issues relating to section 1184 of the bill regarding the establishment of safeguards to protect health information. The National Committee is required to report the results of the study to the Congress by not later than one year after enactment of the bill.

Subsection (d). Effective Date. This subsection provides an effective date for the provisions of this section that is one year after enactment of the bill, with some exceptions: (1) the provisions in subsection (c)(2), the study on safeguards required of the National Committee on Vital and Health Statistics, and (2) section 1183(b) related to the development of a model notice of confidentiality practices.

Section 5002. Study and Report on Effect of State Law on Health-Related Research. The bill requires that one year after enactment of the bill, the Comptroller General of the U.S. prepare and submit to the Congress a report containing the results of a study on the effect of state laws on health-related research that is subject to review by an institutional review board or institutional review committee with respect to the protection of human subjects.

Section 5003. Study and Report on State Law on Protected Health Information.

Subsection (a). In General. The bill requires that not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit to the Congress a report containing the results of a study that (1) compiles State laws on the confidentiality of protected health information (as defined in section 1188 of the Social Security Act, as added by section 5001 of this Act); and (2) analyzes the effect of such laws on the provision of health care and securing payment for such care.

Subsection (b). Modification of Deadline. Section 204(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) is amended by striking "36 months after the date of the enactment of this Act."

Section 5004. Protection for Certain Information Developed to Reduce Mortality or Morbidity or for Improving Patient Care and Safety

Subsection (a). Protection of Certain Information. Health care response information shall be exempt from any disclosure requirement in connection with a civil or administrative proceeding to the same extent as information developed by a health care provider with respect to any of the following: (1) peer review; (2) utilization review; (3) quality management or improvement; (4) quality control; (5) risk management; (6) internal review for purposes of reducing mortality, morbidity, or for improving patient care or safety.

Subsection (b). No Waiver of Protection Through Interaction with Accrediting Body. The protection of health care response information from disclosure shall not be modified or in any way waived by the development or transfer of such information to an accrediting body.

Section 5005. Effective Date for Standards Governing Unique Health Identifiers for Individuals. Amends Section 1174 of the Social Security Act (42 U.S.C. 1320d-3) to preclude the Secretary of Health and Human Services from promulgating or adopting a final standard to be effective under section 1173(b) of the Social Security Act providing for a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard or containing provisions consistent with the standard.
Thursday, July 23, 1998

Daily Digest

HIGHLIGHTS


The House voted to override the President's veto of H.R. 1122, Partial Birth Abortion Ban Act.

House Committees ordered reported 29 sundry measures.

Senate

Chamber Action

Routine Proceedings, pages S8815-S8952

Measures Introduced: Six bills and one resolution were introduced, as follows: S. 2345-2350, and S. Con. Res. 109. Page S8919

Measures Reported: Reports were made as follows:

- Special Report entitled “Slamming”—The Authorized Switching of Long-Distance Telephone Service. (S. Rept. No. 105-259)
- S. 1699, to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel BILLIE-B-II. (S. Rept. No. 105-260)
- S. 1731, to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FALLS POINT. (S. Rept. No. 105-261)
- S. 1732, to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel VESTERHAVEN, with an amendment. (S. Rept. No. 105-262) Page S8915

Measures Passed:

- Commerce, Justice, State Appropriations, 1999:
  By a unanimous vote of 99 yeas (Vote No. 234), Senate passed S. 2260, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, after taking action on amendments proposed thereto, as follows: Pages S8815-80, S8951
  - Adopted:
    - By 90 yeas to 10 nays (Vote No. 229), Kyl/Bryan Amendment No. 3266, to prohibit Internet gambling. Pages S8815-22
    - Gregg (for DeWine) Amendment No. 3274, to authorize the local law enforcement block grant program. Pages S8825-26
    - Gregg/Hollings Amendment No. 3277, relating to the delivery of digital signals in certain areas. Pages S8834-35
    - Gregg/Hollings Amendment No. 3278, relating to the operation of a diplomatic facility in Jerusalem. Pages S8834-35
  - Subsequently, the amendment was modified. Page S8880
  - Gregg/Hollings Amendment No. 3279, to establish a whale conservation fund. Pages S8834-35
  - By 53 yeas to 47 nays (Vote No. 230), Nickles Amendment No. 3272, to amend certain criminal laws relating to the compensation of attorneys. Pages S8822-24, S8837
  - Bingaman/Domenici Modified Amendment No. 3273, to prohibit from trademark the flag, coat of arms or other insignia of any federally-recognized Indian tribes. Pages S8824-25, S8838
  - Kerry Amendment No. 3276, to condition the availability of funds for United States diplomatic and consular posts in Vietnam. (By 34 yeas to 66 nays (Vote No. 231), Senate earlier failed to table the amendment.) Pages S8830-34, S8837-38
  - By 98 yeas to 2 nays (Vote No. 232), Lieberman Amendment No. 3280, to express the sense of the Senate regarding the impact of Japan’s recession on the economies of East and Southeast Asia and the United States. Pages S8835-38
  - Gregg (for Bumpers) Amendment No. 3281, to eliminate the potential for fraud in the investor visa program. Pages S8838-39
By 68 yeas to 31 nays (Vote No. 233), Smith (of Oregon) Modified Amendment No. 3258, to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers.

Feinstein Amendment No. 3282 (to Amendment No. 3258), relating to a cap on the number of H2-A visas.

Kennedy Amendment No. 3283 (to Amendment No. 3258), to establish implementation procedures.

Gregg/Hollings Amendment No. 3284, to make technical corrections.

Gregg (for Moseley-Braun) Amendment No. 3285, to prohibit the publication of identifying information relating to a minor for criminal sexual purposes.

Gregg (for Dodd) Amendment No. 3286, to require Internet access providers to make available Internet screening software.

Gregg (for Specter/Santorum/Durbin) Amendment No. 3287, to move Schuylkill County, Pennsylvania from the Eastern District to the Middle District of Pennsylvania.

Gregg (for Byrd) Amendment No. 3288, to require a report regarding the analysis of the United States Trade Representative with respect to any subsidies provided by the Government of the Republic of Korea to Hanbo Steel.

Gregg (for Murkowski/Stevens) Amendment No. 3289, to prohibit the use of funds for the enforcement in fiscal year 1999 of certain regulations regarding the Global Maritime Distress and Safety System (GMDSS) with respect to United States fishing industry vessels.

Gregg (for Kyl) Amendment No. 3290, to provide for the payment of special masters for civil actions concerning prison conditions.

Gregg (for Kyl) Amendment No. 3291 to provide for the waiver of fees for the processing of certain visas for certain Mexico citizens and to require the continuing processing of applications for visas in certain Mexico cities.

Gregg (for Graham) Amendment No. 3292, to require a study and report on the adequacy of processing nonimmigrant visas by United States consular posts.

Gregg (for Lott) Amendment No. 3293, to provide funds to establish an international center for response to chemical, biological, and nuclear weapons.

Gregg (for Biden) Amendment No. 3294, relating to arrearage payments to the United Nations.

Subsequently the amendment was modified.

Gregg (for Kohl) Amendment No. 3295, to provide for reviews of criminal records of applicants for employment in nursing facilities and home health care agencies.

Gregg (for Gorton) Amendment No. 3296, to prohibit the use of funds for foreign travel or foreign communications by officers and employees of the Antitrust Division of the Department of Justice.

Gregg (for Landrieu) Amendment No. 3297, to exempt orphans adopted by United States citizens from grounds of removal.

Gregg (for D’Amato) Amendment No. 3298, to prevent disclosure of personal and financial information of corrections officers in certain civil actions until a verdict regarding liability has been rendered.

Gregg (for Bingaman) Amendment No. 3299, to allow continued helicopter procurement by the Border Patrol.

Gregg (for Reed) Amendment No. 3300, to extend temporary protected status for certain nationals of Liberia.

Gregg (for Leahy) Amendment No. 3301, to provide for the adjustment of status of certain asylees in Guam.

Gregg (for Hatch) Amendment No. 3302, to focus resources of the Department of Justice on prosecuting violations of federal gun laws.

Gregg (for Kerrey) Amendment No. 3303, relating to information infrastructure grants of the National Telecommunications and Information Administration.

Gregg (for Moseley-Braun) Amendment No. 3304, to clarify the conditions under which export controls may be imposed on agricultural products.

Gregg (for Hutchison) Amendment No. 3305, to make funds available for Student Incentive Payments.

Gregg (for Dorgan) Amendment No. 3306, to require certain new employees in the Office of the United States Trade Representative to work exclusively on investigating the acts, policies, and practices of the Canadian Wheat Board and whether the acts, policies, or practices cause material injury to the United States grain industry.

Gregg (for Torricelli) Amendment No. 3307, to preserve and enhance local FM radio service for underserved countries.
Gregg (for Abraham) Amendment No. 3308, to provide for a study of sediment control at Grand Marais, Michigan.

Pages S8852, S8861

Gregg (for Brownback) Amendment No. 3309, to establish certain limitations with respect to build-out and moving costs of the Patent and Trademark Office.

Pages S8852, S8861

Gregg (for Hatch) Amendment No. 3310, to require that reports submitted to the Committee on Appropriations concerning matters within the jurisdiction of the Committee on the Judiciary also be submitted to the Committee on the Judiciary.

Pages S8852, S8861

Gregg (for Biden) Amendment No. 3311, to amend the Immigration and Nationality Act to eliminate, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal.

Pages S8852, S8861-62

Gregg (for Durbin) Amendment No. 3312, to amend the Violence Against Women Act of 1994 to ensure greater protection of elderly women.

Pages S8852, S8862-63

Gregg (for Brownback) Amendment No. 3313, to modify the membership of the Federal-State Joint Board on universal service.

Pages S8852, S8863

Gregg (for Torricelli) Amendment No. 3314, to provide for the nonpoint pollution control program of the Coastal Zone Management program of the National Oceanic and Atmospheric Administration.

Pages S8852, S8863

Gregg (for Lautenberg) Amendment No. 3315, to provide additional funds for violent crime reduction programs.

Pages S8852, S8863

Gregg (for Feingold) Amendment No. 3316, to provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children.

Pages S8852, S8863-64

Gregg (for Stevens) Amendment No. 3317, of a technical nature.

Pages S8852, S8864

Gregg (for Lautenberg) Amendment No. 3318, to provide for funding for a firearm violation demonstration project.

Pages S8852, S8864

Gregg (for Grams) Amendment No. 3319, to require the submission in advance of a certification to Congress before certain funds are disbursed for contributions to the United Nations.

Pages S8852, S8864

Gregg (for Grams) Amendment No. 3320, to provide for a ban on extradition or transfer of United States citizens to the International Criminal Court.

Pages S8852, S8864

Gregg (for Grams) Amendment No. 3321, to prohibit the availability of funds for the International Criminal Court unless the agreement establishing the Court is submitted to the Senate for its advice and consent to ratification as a treaty.

Pages S8852, S8864

Gregg (for Durbin) Amendment No. 3322, to amend the Immigration and Nationality Act with respect to the requirements for the admission of non-immigrant nurses who will practice in health professional shortage areas.

Page S8880

Rejected:

By 18 yeas to 82 nays (Vote No. 228), Craig
Modified Amendment No. 3268 (to Amendment No. 3266), to clarify that Indian gaming is subject to Federal jurisdiction.

Pages S8815-17

Withdrawn:

Kerrey/Hagel Amendment No. 3275, to prohibit the Administrator of the Environmental Protection Agency from implementing or enforcing the public water system treatment requirements related to the cooper action level of the national primary drinking water regulations for lead and copper until certain studies are completed.

Pages S8826-30

Also, Amendment No. 3261, agreed to on Wednesday, July 22, 1998, was further modified.

Page S8851

African Elephant Conservation Authorization:

Senate passed H.R. 39, to reauthorize the African Elephant Conservation Act, clearing the measure for the President.

Page S8951

Florida Wild Land Fires:

Committee on Environment and Public Works was discharged from further consideration of H. Con. Res. 298, expressing deepest condolences to the State and people of Florida for the losses suffered as a result of the wild land fires occurring in June and July 1998, expressing support to the State and people of Florida as they overcome the effects of the fires, and commending the heroic efforts of firefighters from across the Nation in battling the fires, and the resolution was then agreed to.

Pages S8951-52

Transportation Appropriations, 1999:

Senate began consideration of S. 2307, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1999, taking action on amendments proposed thereto, as follows:

Adopted:

Shelby (for Frist) Modified Amendment No. 3323, to require the Secretary of Transportation to ensure that there is sufficient signage directing visitors to cemeteries of the National Cemetery System.

Pages S8908-09

Shelby/Lautenberg Amendment No. 3324, to improve the bill.
McConnell Amendment No. 3326, to provide for expedited judicial review of constitutional claims with respect to the Transportation Equity Act.

Pages S8894–99

DeWine Amendment No. 3327, to provide additional resources for the United States Coast Guard for drug interdiction efforts around the island of Hispaniola.

Pages S8906–07

Shelby (for McCain) Amendment No. 3328, to ensure that the policies and goals of the Amtrak Reform and Accountability Act of 1997 will be met.

Pages S8907–08

Shelby (for Specter) Amendment No. 3329, to clarify Delaware River Port Authority toll collection authority.

Shelby/Lautenberg Amendment No. 3330, relating to certain transportation issues.

Pages S8908–09

Shelby (for Johnson) Amendment No. 3331, to provide for the use of funds for the costs of biodiesel fuels.

Pages S8908–09

Shelby (for Durbin) Amendment No. 3332, to prohibit smoking on scheduled domestic and foreign airline flight segments taking off from or landing in the United States.

Pages S8908–09

Shelby (for Burns) Amendment No. 3333, relating to hazardous material transportation laws.

Pages S8908–09

Shelby (for Lautenberg/Kerry) Amendment No. 3334, to place certain requirements on the Federal Aviation Administration.

Pages S8908–09

Shelby (for D’Amato) Amendment No. 3335, to require the National Transportation Safety Board to reimburse the State of New York and local counties in New York for certain costs associated with the crash of TWA Flight 800.

Pages S8908–09

A unanimous-consent agreement was reached providing for a vote on passage of the bill to occur on Friday, July 24, 1998, at 9:15 a.m.

Page S8909

A unanimous-consent agreement was reached providing that following passage of S. 2307, and upon receipt of the House companion measure, that all after the enacting clause be stricken and the text of S. 2307, as passed by the Senate, be inserted in lieu thereof, that the House bill be passed, that the Senate insist on its amendment, request a conference with the House thereon, the Chair be authorized to appoint conferees on the part of the Senate, and that the passage of S. 2307 be vitiated, and the bill be indefinitely postponed.

Page S8909

**Federal Credit Union Act—Agreement:** A unanimous-consent agreement was reached providing for the consideration of H.R. 1151, to amend the Federal Credit Union Act to clarify existing law with regard to the field of membership of Federal credit unions, to preserve the integrity and purpose of Federal credit unions, and to enhance supervisory oversight of insured credit unions, on Friday, July 24, 1998.

Pages S8892–93

**Messages From the House:**

Communications:

Pages S8913–14

Executive Reports of Committees:

Pages S8914–15

Statements on Introduced Bills:

Pages S8915–19

Additional Cosponsors:

Pages S8919–23

Amendments Submitted:

Pages S8923–24

Notices of Hearings:

Page S8945

Authority for Committees:

Pages S8946

Additional Statements:

Pages S8946–50

**Record Votes:** Seven record votes were taken today. (Total–234)

Pages S8817, S8822, S8837–38, S8800

**Adjournment:** Senate convened at 9 a.m., and adjourned at 9:14 p.m., until 9:15 a.m., on Friday, July 24, 1998. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S8952)

**Committee Meetings**

(Committees not listed did not meet)

**NOMINATIONS**

Committee on Armed Services: Committee concluded hearings on the nominations of Patrick T. Henry, of Virginia, to be Assistant Secretary of the Army for Manpower and Reserve Affairs, Carolyn H. Becraft, of Virginia, to be Assistant Secretary of the Navy for Manpower and Reserve Affairs, and Ruby Butler DeMesme, of Virginia, to be Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations and Environment, after the nominees testified and answered questions in their own behalf. Ms. DeMesme was introduced by Senator Glenn.

**SOCIAL SECURITY REFORM**

Committee on the Budget: Committee concluded hearings to examine long-term economic and budgetary effects of Social Security reform, after receiving testimony from Martin S. Feldstein, Harvard University, Cambridge, Massachusetts; and Rudolph G. Penner, Urban Institute, and Henry J. Aaron, Brookings Institution, both of Washington, D.C.

**BOXING REFORM**

Committee on Commerce, Science, and Transportation: Committee concluded hearings on S. 2238, to reform unfair and anticompetitive practices in the professional boxing industry, after receiving testimony from James Nave and Marc Ratner, both of the Nevada State Athletic Commission, and Eddie Futch, all of Las Vegas, Nevada; Larry Hazard, New Jersey
State Athletic Control Board, Trenton; Walter R. Stone, Adler, Pollock & Sheehan, Providence, Rhode Island, on behalf of the International Boxing Federation; and Jose Sulaiman, World Boxing Council, Colonia Juarez, Mexico.

**ARCTIC NATIONAL WILDLIFE REFUGE RESOURCES**
Committee on Energy and Natural Resources: Committee concluded oversight hearings to review the process and the results of the recent United States Geological Survey assessment of oil and gas resources for onshore areas of Federal lands, in State of Alaska waters, and on private Native lands within the boundaries of the Arctic National Wildlife Refuge 1002 Area, after receiving testimony from Thomas J. Casadevall, Acting-Director, and Kenneth J. Bird and David W. Houseknecht, both Geologists, all of the U.S. Geological Survey, Department of the Interior; and Kenneth A. Boyd, Alaska Department of Natural Resources, Anchorage.

**LAND EXCHANGE/HISTORIC PRESERVATION**
Committee on Energy and Natural Resources: Subcommittee on National Parks, Historic Preservation, and Recreation concluded hearings on the following bills:
- S. 2109, to authorize an exchange of lands in Glacier Bay National Park and Preserve in Alaska, after receiving testimony from Richard Levitt, Gustavus Electric Company, Gustavus, Alaska;
- S. 2257 and H.R. 1522, bills authorizing funds through fiscal year 2004 for the National Historic Preservation Fund, after receiving testimony from Virginia State Historic Preservation Officer H. Alexander Wise, Jr., Richmond, on behalf of the National Conference of State Historic Preservation Officers; and Edward M. Norton, Jr., National Trust for Historic Preservation, and Susan West Montgomery, Preservation Action, both of Washington, D.C.
- S. 2276, to designate El Camino Real de los Tejas as a National Historic Trail, after receiving testimony from Thomas H. Eubanks, Louisiana Department of Culture, Recreation and Tourism, Baton Rouge; and
- S. 2284, to establish the Minuteman Missile National Historic Site in the State of South Dakota, after receiving testimony from Tim J. Pavek, Minuteman II Deactivation Program, Ellsworth Air Force Base, South Dakota.

Testimony was also received on S. 2109, S. 2257, H.R. 1522, S. 2276, and S. 2284 (all listed above), and S. 2272, to amend the boundaries of the Grant-Kohrs Ranch National Historic Site in the State of Montana from Maureen Finnerty, Associate Director, Operations, National Park Service, Department of the Interior.

**BUSINESS MEETING**
Committee on Environment and Public Works: Committee continued markup of S. 2131, to provide for the conservation and development of water and related resources, and to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, but did not complete action thereon, and will meet again on Wednesday, July 29.

**FEMA REFORM**
Committee on Environment and Public Works: Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety concluded hearings on proposals to reform the Federal Emergency Management Agency, after receiving testimony from James L. Witt, Director, Federal Emergency Management Agency; Mayor Hal Daub, Omaha, Nebraska, on behalf of the National League of Cities; Joseph F. Myers, Florida Division of Emergency Management, Tallahassee, on behalf of the National Emergency Management Association; Albert Ashwood, Oklahoma Department of Emergency Management, Oklahoma City; and Dan Summers, New Hanover County Department of Emergency Management, Wilmington, North Carolina.

**BUSINESS MEETING**
Committee on Foreign Relations: Committee ordered favorably reported the following business items:
- S. Con. Res. 82, expressing the sense of Congress concerning the worldwide trafficking of persons, that has a disproportionate impact on women and girls, and is condemned by the international community as a violation of fundamental human rights, with amendments;
- S. Con. Res. 103, expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet, with amendments;
- An original bill to provide authorities with respect to the transfer of excess defense articles and the transfer of naval vessels under the Foreign Assistance Act of 1961 and the Arms Export Control Act;
- S.J. Res. 54, finding the Government of Iraq in unacceptable and material breach of its international obligations, with an amendment;
The nominations of David G. Carpenter, of Virginia, for the rank of Ambassador while serving as Director of the Office of Foreign Missions, and to be Assistant Secretary of State for Diplomatic Security, John Bruce Craig, of Pennsylvania, to be Ambassador to the Sultanate of Oman, Bert T. Edwards, of Maryland, to be Chief Financial Officer, Department of State, Richard E. Hecklinger, of Virginia, to be Ambassador to the Kingdom of Thailand, James Howard Holmes, of Virginia, to be Ambassador to the Republic of Latvia, Charles F. Kartman, of Virginia, for the rank of Ambassador during his tenure of service as Special Envoy for the Korean Peace Talks, Theodore H. Kattouf, of Maryland, to be Ambassador to the United Arab Emirates, Elizabeth Davenport McKune, of Virginia, to be Ambassador to the State of Qatar, Steven Robert Mann, of Pennsylvania, to be Ambassador to the Republic of Turkmenistan, William B. Milam, of California, to be Ambassador to the Islamic Republic of Pakistan, Hugh Q. Parmer, of Texas, to be Assistant Administrator for Humanitarian Response, Agency for International Development, David Michael Satterfield, of California, to be Ambassador to the Republic of Lebanon, Arthur Louis Schechter, of Texas, to be Ambassador to the Commonwealth of The Bahamas, Jonathan H. Spalter, of the District of Columbia, to be an Associate Director (Bureau of Information), United States Information Agency, Richard Nelson Swett, of New Hampshire, to be Ambassador to Denmark, Melissa Foelsch Wells, of Connecticut, to be Ambassador to the Republic of Estonia, Mary Beth West, of the District of Columbia, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for Oceans, Fisheries and Space, and two Foreign Service Officer promotion lists received by the Senate on June 18, 1998 and July 15, 1998, respectively.

INTERNATIONAL CRIMINAL COURT

Committee on Foreign Relations: Subcommittee on International Operations concluded hearings to examine whether a proposed United Nations international criminal court is in the national interest of the United States, after receiving testimony from David J. Scheffer, Ambassador-at-Large for War Crimes Issues, Department of State; and John R. Bolton, American Enterprise Institute, former Assistant Secretary of State for International Organization Affairs, and Lee A. Casey and David B. Rivkin, Jr., both of Hunton & Williams, all of Washington, D.C.

TELEPHONE CRAMMING

Committee on Governmental Affairs: Permanent Subcommittee on Investigations concluded hearings to examine incidents of the fraudulent practice of telephone cramming, the billing of unauthorized services on a consumer’s telephone bill, after receiving testimony from Lawrence E. Strickling, Deputy Chief, Common Carrier Bureau, Federal Communications Commission; Eileen Harrington, Associate Director for Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission; Susan Grant, National Consumers League, Washington, D.C.; and Roy M. Neel, United States Telephone Association.

SOFTWARE INDUSTRY

Committee on the Judiciary: Committee concluded hearings to examine the current status of, and prospects for, competition and innovation in certain segments of the software industry, focusing on the future direction of business and Internet-related software and the extent to which competition and innovation may be suppressed by existing and/or potential monopoly power, and what basic principles of fair competition are necessary to facilitate continued growth and innovation in the software industry, after receiving testimony from Robert Glaser, Real Networks, Seattle, Washington; Lawrence J. Ellison, Oracle Corporation, Redwood Shores, California; Mitchell Kertzman, Sybase Inc., Emeryville, California;

NOMINATIONS

Committee on Labor and Human Resources: Committee concluded hearings on the nominations of Ida L. Castro, of New York, and Paul M. Igasaki, of California, each to be a Member of the Equal Employment Opportunity Commission, after the nominees testified and answered questions in their own behalf. Ms. Castro was introduced by Senator D'Amato.

MEDICAL INDUSTRY Y2K COMPLIANCE

Special Committee on the Year 2000 Technology Problem: Committee concluded hearings to examine the potential impact of the Year 2000 technology information problem on the medical industry, focusing on the health industry’s progress in preparing for Y2K, and its effect on data systems holding medical records and payment systems, medical devices for diagnostic testing, and patient monitors and life support systems, after receiving testimony from Kenneth W. Kizer, Under Secretary of Veterans Affairs for Health; Kevin L. Thurm, Deputy Secretary, Michael A. Friedman, Acting Commissioner, Food and Drug Administration, and Nancy-Ann Min DeParle, Administrator, Health Care Financing Administration, all of the Department of Health and Human Services; Daniel S. Nutkis, Odin Group, Nashville, Ten- nessee; Jennifer Jackson, Connecticut Hospital Association, Hartford, on behalf of the American Hospital Association; Donald J. Palmisano, New Orleans, Louisiana, on behalf of the American Medical Association; Ramin Mojdeh, Guidant Corporation, Indianapolis, Indiana, on behalf of the Health Industry Manufacturers Association; Gil R. Glover, Blue Cross and Blue Shield of Texas, Dallas, on behalf of the Blue Cross Blue Shield Association; and Joel Ackerman, Rx2000 Solutions Institute, Minneapolis, Minnesota.

House of Representatives

Chamber Action

Bills Introduced: 12 public bills, H.R. 4313-4325; and 3 resolutions, H. Con. Res. 305-307, were introduced.

Reports Filed: Reports were filed as follows:

- Report on the revised Suballocation of Budget Totals for fiscal year 1999 (H. Rept. 105-642); and
- H. Res. 509, providing for consideration of H.R. 4250, to provide new patient protections under group health plans (H. Rept. 105-643).

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Emerson to act as Speaker pro tempore for today.

DoD Authorization Conference: Agreed to the Skelton motion to instruct conferees to insist upon the authorization levels provided in title II of the House bill for Theater Missile Defense programs and for space-based lasers by a yea and nay vote of 424 yeas with none voting “nay” and 1 voting “present”, Roll No. 322.

Subsequently, agreed to the Spence motion to close portions of the conference when classified information is under consideration, by a yea and nay vote of 412 yeas to 5 nays, Roll No. 323.

Partial-Birth Abortion Ban—Veto Override: The House voted to override the President’s veto of H.R. 1122, to amend title 18, United States Code, to ban partial-birth abortions, by a yea and nay vote of 296 yeas to 132 nays, Roll No. 325.

Earlier agreed to discharge the Committee on the Judiciary from further consideration of H.R. 1122 by a yea and nay vote of 295 yeas to 131 nays, Roll No. 321.

Military Construction Appropriations: The House disagreed with the Senate amendment to H.R. 4059, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and agreed to a conference.


The Obey motion to recommit the bill to the Committee on Appropriations with Instructions to report it back with an amendment limiting funds made available unless Representative Sidney R. Yates stands for election to the 106th Congress from the
9th District of Illinois was offered and subsequently withdrawn.

Rejected:
The DeFazio amendment that sought to strike the provision that extends the recreational fee demonstration program for another 2 years (rejected by a recorded vote of 81 ayes to 341 noes, Roll No. 326);

The McDermott amendment that sought to strike Section 333 dealing with the operation or implementation of the Interior Columbia Basin Ecosystem Management Project (rejected by a recorded vote of 202 ayes to 221 noes, Roll No. 327);

The Hinckley amendment that sought to strike section 327 that grants Chugach Alaska Corporation an easement for public roads and related facilities that were conveyed to the corporation pursuant to the Alaska Native Claims Settlement Act (rejected by a recorded vote of 176 ayes to 249 noes, Roll No. 328);

The Miller of California amendment that sought to prohibit any funds to construct any road in the Tongass National Forest (rejected by a recorded vote of 186 ayes to 237 noes with 1 voting “present”, Roll No. 329);

The Pappas amendment that sought to increase the State side grant program of the land and water conservation fund by $50 million (rejected by a recorded vote of 139 ayes to 285 noes, Roll No. 330).

H. Res. 504, the rule that provided for consideration of the bill was agreed to on July 21.

VA, HUD Appropriations: The House resumed consideration of amendments to H.R. 4194, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999.

Agreed To:
The Obey amendment that specifies that any limitation on funding to EPA or the Council on Environmental Quality shall not apply to educational outreach or informational seminars (agreed to by a recorded vote of 226 ayes to 198 noes, Roll No. 332);

Rejected:
The Waxman amendment that sought to specify that any limitation on funds to EPA or the Council on Environmental Quality shall not apply to regulatory determinations for mercury emissions, dredging as a remediation tool, and implementation of the Food Quality Protection Act, Regional Haze Program, or cleanup requirements for facilities licensed by the Nuclear Regulatory Commission (rejected by a recorded vote of 176 ayes to 243 noes, Roll No. 334);

Pending:
The Roemer amendment numbered 5 printed in the Congressional Record that seeks to cancel funding for the International Space Station.

H. Res. 501, the rule that is providing for consideration of the bill was agreed to on July 16.

Amendments: Amendments ordered printed pursuant to the rule appear on pages H6283-95.

Quorum Calls—Votes: Two quorum calls (Roll No. 324 and Roll No. 333), five yea and nay votes, and seven recorded votes developed during the proceedings of the House today and appear on pages H6201, H6201-02, H6202-03, H6207-08, H6212-13, H6213-14, H6214-15, H6215, H6215-16, H6216-17, H6218, H6225, H6241, and H6257.

Adjournment: Met at 10:00 a.m. and adjourned at 1:16 a.m. on Friday, July 24.

Committee Meetings

AMERICAN HOMEOWNERSHIP ACT
Committee on Banking and Financial Services: Subcommittee on Housing and Community Opportunity held a hearing on H.R. 3899, American Homeownership Act of 1998. Testimony was heard from public witnesses.

FEDERAL WORKPLACE DRUG-TESTING PROGRAMS
Committee on Commerce: Subcommittee on Oversight and Investigations held a hearing on the Department of Health and Human Services' Policy for Federal Workplace Drug-Testing Programs. Testimony was heard from the following officials of the Department of Health and Human Services: Joseph Autry, M.D., Director, Division of Workplace Programs, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration; Edward J. Cone, M.D., Acting Chief, Clinical Pharmacology Branch, Intramural Research Programs, National Institute on Drug Abuse, NIH; and Donald Bruce Burlington, M.D., Director, Center for Devices and Radiological Health, FDA; and public witnesses.

MISCELLANEOUS MEASURES
Committee on Government Reform and Oversight: Ordered reported the following bills: H.R. 4237, amended, to amend the District of Columbia Convention Center and Sports Arena Authorization Act of 1995 to revise the revenues and activities covered under such Act; H.R. 2508, amended, to provide for the conveyance of Federal land in San Joaquin County, CA,

The Committee also approved the following draft report entitled: “Making the Federal Government Accountable: Enforcing the Mandate for Effective Financial Management”.

EXPECTANT MOTHERS AND SUBSTANCE ABUSE

Committee on Government Reform and Oversight: Subcommittee on National Security, International Affairs, and Criminal Justice held a hearing on Expectant Mothers and Substance Abuse. Intervention and Treatment Challenges for State Governments. Testimony was heard from Representative Latham; the following officials of the State of South Carolina: Charles Condon, Attorney General; and Catherine Christophillis, Director, Drug Prosecution; Joanne Huelsman, Senator, State of Wisconsin; and public witnesses.

KOSOVO—CURRENT SITUATION AND FUTURE OPTIONS

Committee on International Relations: Held a hearing on Kosovo—Current Situation and Future Options. Testimony was heard from Ambassador Robert Gelbard, Special Representative of the President and the Secretary of State for Implementation of the Dayton Peace Accords, Department of State; and Walter Slocombe, Under Secretary, Policy, Department of Defense.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Commercial and Administrative Law held a hearing on the following bills: H.R. 4049, Regulatory Fair Warning Act of 1998; and H.R. 4096, Taxpayer’s Defense Act. Testimony was heard from Joseph N. Onek, Principal Deputy Associate Attorney General, Department of Justice; Christopher McLean, Deputy Administrator, Rural Utilities Service, USDA; and public witnesses.

OVERSIGHT—U.S. COPYRIGHT OFFICE

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held an oversight hearing on the United States Copyright Office. Testimony was heard from the following officials of the Copyright Office of the United States, Library of Congress: Marybeth Peters, Register of Copyrights; and Shira Perlmutter, Associate Register, Policy and International Affairs.
MISCELLANEOUS MEASURE; PRIVATE IMMIGRATION BILLS; OVERSIGHT

Committee on the Judiciary: Subcommittee on Immigration and Claims approved for full Committee action amended H.R. 3843, to grant a Federal charter to the American GI Forum of the United States.

The Subcommittee approved private immigration bills.

The Subcommittee also held an oversight hearing on Alternative Technologies for Implementation of Section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1997 at Land Borders. Testimony was heard from Michael J. Hrinyak, Deputy Assistant Commissioner, Inspections, Immigration and Naturalization Service, Department of Justice; Joseph O'Gorman, National Team Leader, Land Border Passenger Processing, U.S. Customs Service, Department of the Treasury; and public witnesses.

PATIENT PROTECTION ACT

Committee on Rules: Granted, by voice vote, a modified closed rule on H.R. 4250, Patient Protection Act of 1998, providing for one hour of debate, equally divided between Representative Hastert and an opponent. The rule provides that the amendments printed in the Rules committee report shall be considered as adopted. The rule provides for the consideration of an amendment printed in the Congressional Record and numbered 2. The amendment shall be considered as read, and shall be debatable for one hour equally divided and controlled by the proponent and an opponent. All points of order against the amendment are waived. Finally, the rule provides for one motion to recommit, with or without instructions. Testimony was heard from Representatives Bliley, Stearns, Bilbray, Ganske, Coburn, Lazio, Goodling, Graham, Paul, Ramstad, Johnson of Connecticut, Scarborough, Shadegg, Hastert, Brady of Texas, Thomas, Dingel, Pallone, Eshoo, Strickland, Clay, McDermott, Kieczka, Evans, and Berry.

NSF'S SYSTEMIC INITIATIVES

Committee on Science: Subcommittee on Basic Research held an oversight hearing on the National Science Foundation's Systemic Initiatives: Are SSIs The Best Way to Improve K–12 Math and Science Education? Testimony was heard from Daryl E. Chubin, Director, Division of Research, Evaluation, and Communications, Directorate for Education and Human Resources, NSF; Thomas Baird, Area Cities for Educational Enhancement, Department of Education, State of Florida; and public witnesses.

DEPARTMENT OF VETERANS AFFAIRS; PROVISION OF SPECIALIZED SERVICES

Committee on Veterans' Affairs: Subcommittee on Health held a hearing to review the implementation of section 1706 of title 38, United States Code, which provides for the specialized treatment and rehabilitative needs of disabled veterans. Testimony was heard from Stephen P. Backhus, Director, Veterans' Affairs and Military Health Care Issues, Health, Education, and Human Services Division, GAO; the following officials of the Department of Veterans Affairs: Thomas H. Miller, Chairman, Advisory Committee on Prosthetics and Special Disabilities Programs; Thomas L. Garthwaite, M.D., Deputy Under Secretary, Health; Denis J. Fitzgerald, M.D., Director, VISN 1 and Leroy P. Gross, M.D., Director, VISN 6, both with the Veterans Integrated Services Network; representatives of veterans organizations; and a public witness.

SSA—LABOR-MANAGEMENT RELATIONS

Committee on Ways and Means: Subcommittee on Social Security continued hearings to examine labor-management relations at the SSA. Testimony was heard from the following officials of the SSA: John Reusing, Claims Authorizer, Division of International Operations; Jim Beckstrom, Computer Specialist, Office of Systems; Jim Schampers, District Manager, Waco, Texas; and Edwin M. Hardesty, District Manager, Tulsa, Oklahoma.

Hearings continue tomorrow.

INTELLIGENCE COMMUNITY WHISTLEBLOWER PROTECTION ACT

Permanent Select Committee on Intelligence: Met in executive session and ordered reported amended H.R. 3829, Intelligence Community Whistleblower Protection Act of 1998.
CIA—WHISTLEBLOWER REGULATION
Permanent Select Committee on Intelligence met in executive session to receive a briefing on CIA’s new Whistleblower Regulation. The Committee was briefed by departmental witnesses.

DENIAL AND DECEPTION
Permanent Select Committee on Intelligence met in executive session to hold a hearing on Denial and Deception. Testimony was heard from departmental witnesses.

Joint Meetings

IMF STRUCTURE
Joint Economic Committee: Committee concluded hearings to examine the financial condition of the International Monetary Fund, after receiving testimony from Harold J. Johnson, Jr., Associate Director of International Relations and Trade Issues, General Accounting Office.

APPROPRIATIONS—MILITARY CONSTRUCTION
Conferees agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 4059, making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST, p. 817)
H.R. 1316, to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits. Signed July 22, 1998. (P.L. 105-205)

COMMITTEE MEETINGS FOR FRIDAY, JULY 24, 1998

Senate
No committee meetings are scheduled.

House
Committee on Appropriations, Subcommittee on the District of Columbia, to mark up appropriations for fiscal year 1999, 9 a.m., H-140 Capitol.
Committee on Banking and Financial Services, to continue hearings on H.R. 4062, Financial Derivatives Supervisory Improvement Act of 1998, 10 a.m., 2128 Rayburn.
Committee on Commerce, Subcommittee on Finance and Hazardous Materials, hearing on Enhancing Retirement Security Through Individual Investment Choices, 10 a.m., 2123 Rayburn.
Committee on Education and the Workforce, Subcommittee on Oversight and Investigations, hearing on International Brotherhood of Teamsters Governance and Practice, 9:30 a.m., 2175 Rayburn.
Committee on International Relations, Subcommittee on International Operations and Human Rights, to mark up the following measures: H.R. 4083, to make available to the Ukrainian Museum and Archives the USIA television program “Window on America”; H.R. 633, to amend the Foreign Service Act of 1980 to provide that the annuities of certain special agents and security personnel of the Department of State be computed in the same way as applies generally with respect to Federal law enforcement officers; H. Con. Res. 185, expressing the sense of the Congress on the occasion of the 50th anniversary of the signing of the Universal Declaration of Human Rights and recommitting the United States to the principles expressed in the Universal Declaration; and H.R. 4309, Tortures Victim Relief Act of 1998; followed by a hearing on Human Rights in Indonesia, Part II, 10 a.m., 2172 Rayburn.
Committee on Rules, hearing on H. Res. 507, providing special investigative authority for the Committee on Education and the Workforce, 11:30 a.m., H-313 Capitol.
Committee on Ways and Means, Subcommittee on Social Security to continue hearings to examine labor-management relations at the SSA, 10 a.m., 1100 Longworth.
Permanent Select Committee on Intelligence, executive, hearing on Future Imagery Architecture, 11 a.m., H-405 Capitol.
Next Meeting of the SENATE
9:15 a.m., Friday, July 24

Program for Friday: Senate will vote on passage of S. 2307, Transportation Appropriations, 1999, and begin consideration of H.R. 1151, Federal Credit Union Act.

Next Meeting of the HOUSE OF REPRESENTATIVES
9 a.m., Friday, July 24

Program for Friday: Consideration of H.R. 4250, Patient Protection Act (modified closed rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

HOUSE
Ballenger, Cass, N.C., E 1396
Barcia, James A., Mich., E 1395, E 1397
Blumenauer, Earl, Ore., E 1398
Del. Auro, Rosa L., Conn., E 1402
Dingell, John D., Mich., E 1401

Filner, Bob, Calif., E 1399
Gordon, Bart, Tenn., E 1397
Hall, Ralph M., Tex., E 1398
Hastert, J. Dennis, Ill., E 1402
Kennedy, Patrick J., R.I., E 1396, E 1399
Kucinich, Dennis J., Ohio, E 1398, E 1400
Lafalce, John J., N.Y., E 1396, E 1399

Lee, Barbara, Calif., E 1399
Markey, Edward J., Mass., E 1395
Pomeroy, Earl, N.D., E 1401
Radanovich, George P., Calif., E 1395, E 1397
Sanders, Bernard, Vt., E 1400