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House of Representatives

The House met at 9 a.m.

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 25 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

ELECTION DAY 1999

Mr. BLUMENAUER. Mr. Speaker, today the issue for the 2000 election is being previewed from coast to coast, that experts term a sleeper issue, hidden just below the surface. That issue, Mr. Speaker, is a welcome change from the nasty and sometimes incomprehensible partisan politics that have characterized contemporary campaigns. The issue instead is one that is positive, inclusive, that brings people together rather than driving them apart for partisan advantage. That issue, of course, is related to livable communities.

How do we make our families safe, healthy and economically secure? Here in the Washington, D.C. metropolitan area, we in Congress have been witness just across the river in Northern Virginia to a variety of spirited campaigns. The hot button issues of these campaigns have been transportation, congestion, air pollution, unplanned growth and gun violence.

At the other end of the country, there are a variety of initiatives that are local responses to the State of California's refusal to have planned Statewide growth management in place. Citizens want more control and predictability.

In the State of Colorado, voters are increasingly concerned about the quality of life issues facing metropolitan Denver. This is understandable when we realize that just a couple of years ago, Colorado citizens discovered that the plans for their urbanized metropolitan Denver would sprawl more than a thousand square miles. That is bigger than Los Angeles, San Diego, Sacramento, San Francisco, San Jose and Long Beach combined.

Today with even a modestly pared down growth management approach and voluntary compliance, Denver is facing a significant referendum for both highway construction and, paired with a light rail referendum, both are expected to pass.

In the State of New Jersey, the State-wide Transportation and Local Bridge Bond Act of 1999 will be public question number 1 on Tuesday's ballot. This is coming hard on the heels of Governor Christine Todd Whitman's pronouncement that the theme of her second term as governor would be livable New Jersey. The already-approved open space bond in New Jersey has received strong support from transit and environmental groups. The New Jersey transportation Commissioner James Weinstein has pledged repeatedly that the dollars from this bond measure will be directed towards fixing existing infrastructure and not used to add new sprawl and traffic-inducing projects.

Greg Meyer of the tri-State transportation campaign was quoted as saying, "If you build it, they will come. If you fix it, they will remain. Preserving the transportation we have already got is the means to focus growth in already-developed areas without encouraging sprawl in the fringe. The bond plan follows this principle."

Mr. Speaker, time does not permit me to deal with even the highlights of initiatives in Arizona, Florida, Maine, Maryland, Michigan, Minnesota, Ohio, Pennsylvania, Texas or Washington State.

I do want to note that the State of Wisconsin just enacted the "growing smart" law, which is that State's first comprehensive growth management act. As one who came to Congress dedicated to having the Federal Government promote closer relations promoting livability, being a better partner, I am excited by what we are seeing from coast to coast. It is time for us in Congress to do our part, whether it is making the post office obey local land use laws and zoning codes, having the Federal Government lead by example with GSA or fully funding the Land and Water Conservation Act or reforming the national flood insurance program so that we no longer are subsidizing people who are living where God does not want them.

I am looking forward to seeing the results of today's election and I am excited for the election to come, because I think livability issues will continue to be the issues that Americans care about, and once again the citizens will be leading the political leaders.

END AMERICAN TAX SUBSIDIES FOR DRUG DUMPING

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 19, 1999, the gentleman from Texas (Mr. DOGGETT) is recognized during morning hour debates for 5 minutes.

Mr. DOGGETT. Mr. Speaker, we have all seen the heartbreaking stories of huddled masses of refugees after a flood or hurricane, a civil war, a natural or manmade disaster, searching for food and water and lost family members. It warms our hearts to hear of international aid efforts, frequently led by America, to provide those in need with the assistance that they require. Congress decided long ago that

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we should reward these outreach efforts through generous tax deductions for property or items that are donated to help those most in need, even if the recipients are at the four corners of our world.

While many of these efforts are truly commendable, like those of the International Red Cross, others simply represent the dumping of worthless products. Under the title, ''In a Wave of Balkan Charity Comes Drug Aid of Little Use,'' the New York Times reported this very summer how camps filled with refugees from Kosovo received anti-smoking inhalers and hemorrhoid treatments instead of much-needed antibiotics.

The Times reported that ''the outpouring of aid from corporate America and elsewhere for more than a million refugees who flooded into Albania and Macedonia during the war was indeed vast and included many badly-needed medicines. But the World Health Organization said about one-third to half of all of the shipments were inappropriate and likely to gather dust in warehouses or be destroyed at government expense.''

Should American taxpayers subsidize the donations of useless pharmaceutical products to foreign countries? I think the question really answers itself, but this practice continues to occur, encouraged by our U.S. tax laws. Normally when a corporation donates property it may deduct its cost to produce the item.

To encourage donations to a charity for needy causes, as is the case for these drugs that are destined for foreign relief, our tax laws permit a corporation to receive twice its basis. That is fine when the drugs are useful, but it is totally unjustified when they are worthless. I am filing legislation today to prevent this abuse of the enhanced charitable deduction for overseas contributions of worthless drugs, and some 50 of my colleagues are joining me in this effort.

A recent study by the Harvard School of Public Health entitled An Assessment of U.S. Pharmaceutical Donations concluded that up to 40 percent of the drugs that are sent abroad were not requested and that about one third had less than a year of usefulness remaining. This is not a new problem. The New England Journal of Medicine had previously described a similar situation surrounding the misery in Bosnia. After analyzing about 30,000 metric tons of drugs and medical materials donated over a 4-year period, the Journal of Medicine study concluded, ''in total, we considered 50 to 60 percent of all the medical supplies donated to Bosnia and Herzegovina to be inappropriate.'' Over one-third of these donations consisted of the dumping of large quantities ''of useless or unusable drugs.'' They even included medicine for leprosy, a disease not found in these countries, and this is a problem not limited to the Balkans. It stretches from Armenia to Papua New Guinea.

Yet our existing law continues to encourage and subsidize such contributions. We should stop this now with straightforward amendments to the Internal Revenue Code. These amendments would include requiring that there be one year of good shelf life remaining as specified by Food and Drug Administration regulations, that drugs be labeled in a manner understandable to foreign health professionals, and that charities assure the drugs that are sent are drugs that are requested and needed by the foreign recipient.

Said one World Health Organization official, ''if you overload people with things that they do not recognize and do not know how to use, you're not helping.'' And indeed to those in need around the world, the dumping of useless drugs is actually worse than no help at all, since such toxic junk must be destroyed by those most in need.

The Journal of Medicine study estimated that the cost of destroying 17,000 tons of inappropriate drug donations in the Balkans reached $34 million. That is $34 million wasted, some of which went to destroy drugs subsidized by American taxpayers that never should have been sent in the first place.

The bill that I am filing today has received the support of the Partnership for Quality Medical Donations, a group consisting of a number of major pharmaceutical companies and international relief agencies.

The provisions of this bill are drawn from the drug donation guidelines of the World Health Organization. These guidelines and this bill incorporate what are really the ''best practices'' of industry at present, but we incorporate these into Federal tax law. Some companies have been singled out for public praise, and rightly so, but U.S. tax laws provide an incentive for foreign dumping that must end. Let us stop rewarding those who have been more interested in obtaining a tax deduction than helping those who are truly in need. Let us stop the tax subsidies for drug dumping.

MICROENTERPRISE DEVELOPMENT, THE TIME HAS COME TO SUPPORT HARD-WORKING AMERICANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentlewoman from Maryland (Mrs. MORELLA) is recognized during morning hour debates for 3 minutes.

Mrs. MORELLA. Mr. Speaker, this seemed like a good opportunity to call attention of this body to a bill that I think is worthy of consideration and passage. From Bangladesh to Guatemala, one of the most exciting strategies for fighting poverty in developing countries is microenterprise development. For poor women especially, the practice of extending very small loans and improving access to financial services has revolutionized the lives of poor people and the way in which we think about poverty-focused development.

We are now learning that microenterprise development can transform the lives of poor Americans as well. The time has come for us to provide the same support to these hard-working Americans that we have provided so successfully to millions of people around the world.

The program for investment in microentrepreneurs, called the PRIME Act of 1999, which is H.R. 413, sponsored by my colleagues the gentleman from Iowa (Mr. LEACH) and the gentleman from Illinois (Mr. RUSH), and I am a cosponsor, that provides us with an opportunity to do just that.

Unlike developing countries where access to credit is the biggest obstacle to poor entrepreneurs, American entrepreneurs face significant challenges to access the training and the technical assistance that is necessary to navigate the complex American economy. Though poor entrepreneurs may already have a business idea and a willingness to work hard, they may lack the financial and business skills that are necessary to turn a good idea into a sustainable business.

Very often, a little training and technical assistance can be the difference, the difference between success and failure, between food on the table and an evening of hunger. The PRIME Act can be a catalyst for such change. I hope this body will consider it and pass it.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 10 a.m.

Accordingly (at 9 o'clock and 14 minutes a.m.), the House stood in recess until 10 a.m.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BIGGERT) at 10 a.m.

PRAYER

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

Let us pray using the words of St. Francis:

Lord, make us instruments of Your peace.
Where there is hatred, let us sow love;
where there is injury, pardon;
where there is discord, union;
where there is doubt, faith;
where there is despair, hope;
where there is darkness, light;
where there is sadness, joy.
Grant that we may not so much seek
to be consoled as to console;
to be understood as to understand;
to be loved as to love.
For it is in giving that we receive;
it is in pardoning that we are pardoned; and

it is in dying that we are born to eternal life.
Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from North Carolina (Mr. BALLENGER) come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER 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.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar day.

The Clerk will call the first individual bill on the Private Calendar.

BELINDA McGREGOR

The Clerk called the Senate bill (S. 452) for the relief of Belinda McGregor.

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

RICHARD W. SCHAFFERT

The Clerk called the bill (H.R. 1023) for the relief of Richard W. Schaffert.

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

WILD HORSE MANAGEMENT: A BETTER WAY

(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, more than half of this Nation's wild horse population and burro population roams free over the rangelands of Nevada. But the State of Nevada has little or no authority over the management of these herds because wild horse and burro management rests solely with the Bureau of Land Management, mostly here in Washington, D.C.

Unfortunately, the BLM's management has proven to be highly ineffective and terribly destructive to both the rangeland and to these animals.

Wild horses and burros are causing havoc and destruction on Nevada's rangelands through overgrazing and destruction of riparian areas. Many animals simply are starving to death because the land cannot physically sustain them.

These horses and burros may not be the brightest animals on the farm, but neither is the bureaucracy here in Washington, D.C. The failure of this current management system is obvious to many Nevadans.

Clearly, the current Federal bureaucracy is doing more harm than good, and a change needs to be made. Congress needs to act to pass H.R. 2874, the Wild Horse and Burro Preservation and Management Act.

Madam Speaker, I yield back whatever common horse sense may remain in the BLM's management policy.

STRENGTHEN SOCIAL SECURITY SYSTEM RATHER THAN JUST TALK ABOUT IT

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

Mr. CARDIN. Madam Speaker, we began this session of Congress in January with much hope of improving our Social Security system and strengthening it. Both Democrats and Republicans talked about making that our top priority. Well, Madam Speaker, we are now near the end of this session of Congress, and we have not lived up to our commitments to our seniors.

In January, we talked about extending the Social Security Trust Fund. Now, when we look at what is going to be done, we will not extend the solvency of the Social Security Trust Fund by one day.

The Republican leadership is trying to change the subject. But our seniors understand what is happening. It was our responsibility to act on Social Security this year, and we are not going to do it.

The President has sent up proposals that would extend the solvency of the Social Security system by 16 years. That is a good first step. We should pass that. Then we should work together as Democrats and Republicans to strengthen our Social Security system rather than just talking about it.

MINIMUM WAGE HIKE IS UNNECESSARY

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

Mr. KNOLLENBERG. Madam Speaker, I rise today to remind my colleagues of a few reasons that a minimum wage hike is unnecessary. Raising the minimum wage harms the very people that it is supposed to help.

U.S. Census figures show that the average income of minimum wage employees increases by 30 percent within 1 year of employment. Why? Because, as these workers spend time in the workplace, they accumulate more skills and increase their own value. Just plain common sense.

That is why less than 3 percent of employees above the age of 30 work at the minimum wage. The longer they are in the work force, the more money they make.

Madam Speaker, there are better ways to empower the poorest and least skilled in our society. Tax incentives for working Americans and businesses are just one way. Raising the minimum wage is clearly the wrong way.

I urge my colleagues to keep these important factors in mind as the House debates a minimum wage hike in the future.

SENIORS DISAPPOINTED WITH FAILURE TO SOLVE SOCIAL SECURITY SOLVENCY BEFORE CLOSE OF CONGRESS

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

Mr. GEORGE MILLER of California. Madam Speaker, think how disappointed the American public must be as they see the Congress coming to a close in the next couple of weeks and how it has failed to address the problems of Social Security, to extend the solvency of Social Security, to deal with the fundamental reforms that are necessary so that Social Security will be there for us, for our children and our grandchildren; and then to find out, not only have they failed to extend the solvency of Social Security, but the Republicans have made a conscience decision to dip into the trust funds.

As we were told at the end of last week by the Congressional Budget Office, some $17 billion has been taken out of the Social Security Trust Funds to finance the gimmicks that the Republicans have put together to try and pass the budget, a budget that has yet to pass.

Think of the disappointment of the American public when they learn this most fundamental program, this most important program to the retirees of our Nation has been given this kind of treatment during this session as the Republicans get ready to leave this town and to end this Congress. Not only have they spent the Social Security Trust Fund, but they have also failed to deal with prescription drug benefits and with the minimum wage.

SENIORS WILL BE DISAPPOINTED WITH CONGRESSIONAL RECORD THIS YEAR

(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, as we prepare to finish our

work in Washington and return home to our districts, we know we will have to explain our record here in Congress. It looks as though we will return to our seniors with terrible news. We will tell them that while the House passed a Social Security Lockbox Protection bill on May 26, this bill to permanently stop the raid on Social Security funds has been held hostage in the other body now for a total of 159 days.

We will have to explain to our seniors that some big spenders in Washington want to continue the raid on Social Security funds. We stopped the raid this year, but it was not easy. That is why the lockbox bill is so important. It will make it easier to stop the raid in future years.

I hope President Clinton and all the outside interest groups that say they speak for the interest of American seniors will join me in supporting lockbox protection for the Social Security Trust Fund.

ENFORCE EXISTING GUN LAWS; DO NOT CODDLE GUN VIOLATORS

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

Mr. TRAFICANT. Madam Speaker, the White House wants more gun control. Janet Reno wants more gun control. But something just does not add up, Madam Speaker. In the last 5 years, prosecution of gun violators dropped 50 percent. Gun violators serve 25 percent less time in jail, and many pardons were granted for gun violators.

Now think about it. Fewer prosecutions, early releases, pardons, but the White House wants more gun control. Beam me up, Madam Speaker.

America does not need more gun control. America needs the White House to enforce the gun laws we already have. I yield back all the coddling of these gun violators by this administration.

BLACKHAWK HELICOPTERS FINALLY ARRIVE IN COLOMBIA

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

Mr. BALLENGER. Madam Speaker, on Sunday, October 31, 1999, the first three of six of the long awaited Blackhawk helicopters crossed into Colombian airspace, returning from extensive training in the U.S. The choppers were later received by the Director General, the legendary drug fighter Jose Serrano and his anti-drug unit at their air base near Bogota, where they train drug fighting pilots from all across Latin America.

After years of waiting for the Clinton administration to get off the dime and help our beleaguered neighbor just 3 hours from Miami, which produces 80 percent of the world's cocaine and 75 percent of the heroin sold in the United States, the GOP-led anti-drug package from last year finally arrived.

DEMOCRATS WANT TO EXTEND LIFE OF SOCIAL SECURITY TRUST FUND

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

Ms. SCHAKOWSKY. Madam Speaker, if it were not so serious, it would be funny. The Republican Party, the party that never believed in Social Security, is now posing as its savior. They say Democrats are raiding Social Security, running ads that we are stealing from Social Security. It is a joke.

First, the Republican budget has already spent about $17 billion in the Social Security surplus. All the experts and accountants agree. They have done what they accuse the Democrats of doing.

Second, this entire debate is a hoax, and they know it. When one puts one's money into a savings account, does one think it just sits there? No. The bank uses one's money and pays one interest. That is not stealing.

It is the same with Social Security. The trust fund is either used for programs or to pay down the debt. Interest is paid back in the fund. The Republicans are desperately trying to cover up the fact that, unlike the Democrats, they have no plan to extend the life of Social Security, and that is the ugly truth.

IF DEMOCRATS WILL HELP, WE CAN SAVE SOCIAL SECURITY

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

Mr. KINGSTON. Madam Speaker, it is very interesting to hear all these Democrats who voted no on the appropriation bills because we were not spending enough now saying that we are taking money out of Social Security. Hello. Where does the extra money come from? I will yield the floor to any Democrat who can tell me. If they do not want to get it out of Social Security, where are they getting the money from? Hello. Hello. Silence, what I thought. Just what I thought.

Here is the words of the President's advisor: ''The key goal of the Republicans is not to spend Social Security surplus.'' That is from their own Democrat advisor.

Now, what is our alternative? To get 1 cent out of each dollar. I am a father of four. Do my colleagues know what, we have to cut our budget weekly. We have to come up with more money. Usually when we are looking at a dollar, we have to get a quarter or 35 cents out of it. If I had to cut a penny out, it would be easy. But that is what we are doing.

All the Democrats now are crying and screaming there is no waste in government. What about when the President went to Africa and spent $42.8 million and took 1,300 of his closest friends? I think there is a lot of waste in government. If we can get the Democrats to help us, we can save Social Security and quit spending it.

THE DO-HARM CONGRESS

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

Ms. NORTON. Madam Speaker, this will be remembered as less than a do-nothing Congress. It is the do-harm Congress, because we are squandering a unique opportunity to begin fixing Social Security and Medicare.

When my colleagues cannot even get out 13 appropriations, the minimum work that Congress does, they simply ought to retire and go home.

Last week we flattened the smallest appropriation, D.C., by loading the Labor-HHS on its back just to get it to the White House because the majority could not pass it. The unfairness of the maneuver is matched only by the incompetence of the majority it exposes.

Shame on the Congress. But greater shame is the long-term damage the Republicans are doing to Social Security. They are locking it in a box; and inside, they are letting Social Security wither and die.

The Republicans are selling out the largest generation in this century as their old age approaches. May the baby boomers have their revenge before it is too late.

SOCIAL SECURITY PLAN OF THE PRESIDENT

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

Mr. OSE. Madam Speaker, I rise today again to make a point of the Social Security plan that the President has put forward.

We have heard much in terms of the ballyhoo about the President's plan, of which I have a copy and which will be reviewed at the Committee on Ways and Means on Thursday. With great respect to my friends on the other side, I am curious whether or not they support the President's plan to save Social Security. Before they answer, be careful, because I will tell them, having read it and read it carefully, it requires a reduction in the discretionary outlays for appropriations.

This is the leader on their side of the aisle saying we are going to cut appropriations. Given the situation we have today where we cannot even come to even a nominal reduction, how are we going to achieve that?

Madam Speaker, the numbers do not add up with the President's Social Security plan. I urge each of my colleagues to read it very carefully.

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If we support it, we are supporting a reduction in discretionary appropriations of significant nature. Read it

carefully. The President's plan does not add up.

SOCIAL SECURITY

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

Ms. BALDWIN. Madam Speaker, seniors everywhere are concerned about the future of Social Security, not out of selfishness, they know it will be there for them, but out of concern for future generations.

Social Security is not just a commitment we made to our seniors, it is a commitment we made to families. It allowed so many seniors to remain financially independent long after retirement, ensuring that they would not become a financial strain for their children.

We want future generations to have every opportunity. The best education, quality health care and a good job, and we want them to know that programs like Social Security will be there when they retire.

And yet after all the rhetoric we have heard about protecting Social Security, the Republican Congress has failed to enact legislation to extend Social Security by even one day. I know that there are many grandmothers like my own who are looking to us right now. Let us work together to make it happen.

BOTH PARTIES WANT TO HOLD SOCIAL SECURITY SACROSANCT

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

Mr. TANCREDO. Madam Speaker, it is truly heartening to hear the discussion today about Social Security; both sides talking about Social Security, both sides talking about saving Social Security, both sides extolling the virtues of holding Social Security sacrosanct. Madam Speaker, that is the first time those words have been heard for the last 40-some years.

When the Democrats had control of this place, all that time they spent every single dime of Social Security on programs and today they are here arguing about who is saving more. Well, I do not care which one is right, the fact is we have the argument now on our terms, in our court. The debate is now on our side.

How much and who is going to do more to save the Social Security fund is great. It bodes well for America. Because over the next 10 years it will reduce the rate of growth of government by over $2 trillion, if we can keep the debate focused there.

Let us not get away from the debate. Remember, saving Social Security is not just good for Social Security, it is good for America.

REPUBLICAN BUDGET BILL IS OUT OF TOUCH WITH NEEDS OF AMERICANS

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

Mr. ROMERO-BARCELÓ. Madam Speaker, as we consider the Republican budget bill, foremost in our mind should be the realization that this bill is out of touch with the needs of millions of Americans. This bill provides nothing for Social Security. This bill provides nothing for Medicare. This bill ostensibly can hurt every single family in our Nation.

Social Security has conveyed a message of hope and a measure of financial security for all Americans. It represents the only income for millions of elderly Americans all across the Nation, and yet this bill does not extend the life of Social Security by one single day.

The bill fails to provide one penny for a Medicare prescription drug benefit. As we stand at the portal of the millennium, it is not acceptable that our elderly should be forced to choose between food and medicine.

Madam Speaker, I urge my colleagues to keep Social Security sound, and I urge them to keep Medicare sound and address the needs of all Americans.

SAVING SOCIAL SECURITY IS ONE OF REPUBLICANS' FOUR-POINT PRIORITIES

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

Mr. DREIER. Madam Speaker, since 1937, American workers have been forced, through no choice of their own, to pay into the Social Security Trust Fund. Today, 75 percent of the American people pay more in payroll taxes than they do in Federal income taxes.

In light of that, it seems to me that there is a very important obligation that needs to be met, and that obligation is one that the Speaker of the House, when he stood here on the opening day of the 106th Congress, made very clear. He said that we, in fact, were going to save Social Security and Medicare, and that is one of the four-point priorities that we put forth.

Now, we very much want to do that, and I believe, if one looks at the appropriations bills that we have been able to pass in this House, including the most recent one which completed our work, we were able to do it for the first time since 1967 without dipping into the anticipated surplus for Social Security.

That is something that underscores our very strong commitment to make sure that the United States Government stands behind that obligation which it forces the American people to pay into. We are doing the right thing in pursuing that.

REPUBLICAN BUDGET PLAN SHOULD BE RENAMED PORK PROTECTION ACT OF 1999

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

Mr. EDWARDS. Madam Speaker, Al Capone can claim he is a crime fighter, but it does not make it so. Republicans can claim they are really trying to protect Social Security, but it does not make it so.

Here we are the second day of the second month of the new fiscal year, and the majority party, months late, has just passed its final appropriations bill, albeit with no effort to be bipartisan.

There are just a few problems with this gimmickry Republican budget plan. First, the plan does not add one year, not one month, not one week, not one day, not even one hour to the Social Security or the Medicare trust funds.

Second problem with their plan. It hurts, in some ways, every American family. Head Start, cut; college loans, cuts; defense readiness, cut below the President's request. Even worse, the Republican budget has rules crafted in a way that actually cuts bone marrow in order to protect pork. Perhaps the Republican budget plan should be renamed the 1999 Pork Protection Act.

Third problem they have is their numbers do not add up. Their plan shows more gimmickry than a French chef. We should reject their plan.

REPUBLICAN LEADERSHIP MUST COME CLEAN ON SOCIAL SECURITY

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

Mr. RODRIGUEZ. Madam Speaker, Halloween is over, let us stop playing those tricks and let us give the Americans the treat that they deserve, the truth. The truth is that the Republicans have exceeded their own caps by $31 billion, and we all recognize and we all know that.

We also recognize that we have dipped into $17 billion into Social Security already. Apparently, the approach is if they tell a lie often enough, people will believe them. Well, this data did not come from the administration, this data did not come from the Democrat Party, this data came from the Republican accountants at the CBO; $17 billion into Social Security already.

So what is wrong with this picture? We have a golden opportunity to work in a collective manner. And the beauty of it is that we are all talking about Social Security, so, apparently, we have some interest in that area.

The leadership must come clean though and tell the truth. There are many worthy programs that we have, and we have had some major national

disasters. We have the farm crisis, and there are some other needs to look at realistically in the cap, but let us tell the truth. Halloween is over.

REPUBLICANS BOAST SORRY RECORD OF NONACHIEVEMENT

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

Mr. ALLEN. Madam Speaker, when the Speaker of this House was sworn in, he promised to get the appropriations bills done on time. Well, we are into November, the second month of the new fiscal year, and it is not done. The Republican leadership cannot do the regular business of this House on time.

But the greater tragedy is our failure to make progress on substantive challenges. Democrats and some dedicated Republicans worked to pass campaign finance reform, but Republicans killed it in the other body.

Democrats tried to make our streets and our schools safer for children by passing modest gun safety provisions; Republicans killed it.

Democrats tried to make health care safer for patients by passing a Patients' Bill of Rights; Republicans killed it.

Democrats tried to make this world safer by passing the comprehensive test ban treaty; Republicans killed it.

Democrats tried to help our seniors pay for their prescription drugs, and Republicans killed it.

With this sorry record of nonachievement, it is time to go home and work harder next year to make progress on the issues that matter to America's families.

FOCUS ON SAVING SOCIAL SECURITY

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

Mr. PHELPS. Madam Speaker, in an era of unprecedented economic growth and prosperity, we have a responsibility to implement policy that ensures continued growth for all sectors of our society. That requires investing in the future, creating a better America for our children, a future in which working families can afford to send their children to college and in which all Americans can count on the continued integrity of Social Security.

As I talk with my constituents in Southern Illinois, I am encouraged that people are actively discussing the many ways to address the future of Social Security. I believe we need to start by paying down the national debt. My constituents realize we must be fiscally responsible. Reducing the national debt is the best tax cut we can provide to working men and women.

Madam Speaker, I urge my colleagues to focus on saving Social Security, reducing the national debt, balancing the budget and reforming Medicare. We owe them this.

CENSORSHIP AND THREATS ISSUED BY CONGRESSIONAL STAFFERS

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

Ms. SLAUGHTER. Madam Speaker, I have some shocking news this morning. If my colleagues will recall, last Thursday, I think in a moment of spectacular madness, the majority of this House passed a bill that cut the funding for research to the National Institutes of Health until the last 2 days of the fiscal year next year.

The troubling news I have this morning is that it has come to our attention that a brazen act by some staffers in Congress has taken place. Majority staffers in the other body have warned the National Institutes of Health researchers and the research advocates that if they complain about the delays proposed for the research, their own funding is going to be jeopardized.

This is a scandal of major proportions; taking away the first amendment rights and the rights of people to try to address this body.

Now, just yesterday it was announced by researchers at the University of Rochester, New York, in my district, that they have discovered that genetic material from the HIV virus can kill cancer tumors. They tell me that this and other NIH-funded research is what is going to be hampered in Rochester if their funding is delayed.

The chairman of the Labor-HHS subcommittee yesterday asked the President to veto the bill because he is stunned too by its irresponsibility.

REPUBLICAN BUDGET BILL DOES NOTHING FOR SOCIAL SECURITY OR MEDICARE AND HURTS EVERY FAMILY

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

Ms. DELAURO. Madam Speaker, the Republican leadership's budget bill does not extend the life of Social Security even by one single day, it fails to provide one penny for Medicare prescription drug benefits, and, frankly, the only thing it does do is to hurt American families, every American family, in a very, very real way.

As one of my colleagues earlier said, if it were not so tragic it would be laughable to hear the Republican leadership on the other side of the aisle talk about their allegiance and their heartfelt sympathy about Social Security and their desire to want to save Social Security. However, their majority leader, in 1984, called Social Security ''a bad retirement, a rotten trick on the American people,'' and I quote, ''I think we are going to have to bite the bullet on Social Security and phase it out over a period of time.''

He said that in 1984. Now let us fastforward to 1994. On a C-SPAN call-in show he was asked, ''Are you going to take the pledge? Are you going to promise not to cut people's Social Security to meet your promises? No, I am not going to make such a promise. I would never have created Social Security.''

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to clause 8 of rule XX, the Chair announces that she will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record votes on postponed questions will be taken after debate has concluded on all motions to suspend the rules, but not before 4 p.m. today.

□ 1030

ENCOURAGING EDUCATION OFFICIALS TO PROMOTE FINANCIAL LITERACY TRAINING

Mr. PETRI. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 213) encouraging the Secretary of Education to promote, and State and local educational agencies to incorporate in their education programs, financial literacy training.

The Clerk read as follows:

H. CON. RES. 213

Whereas in order to succeed in our dynamic American economy, young people must obtain the skills, knowledge, and experience necessary to manage their personal finances and obtain general financial literacy;

Whereas all young adults should have the educational tools necessary to make informed financial decisions;

Whereas despite the critical importance of financial literacy to young people, the average student who graduates from high school lacks basic skills in the management of personal financial affairs;

Whereas a nationwide survey conducted in 1997 by the Jump$tart Coalition for Personal Financial Literacy examined the financial knowledge of 1,509 12th graders;

Whereas on average, survey respondents answered only 57 percent of the questions correctly, and only 5 percent of the respondents received a 'C' grade or better;

Whereas an evaluation by the National Endowment for Financial Education High School Financial Planning Program undertaken jointly with the United States Department of Agriculture Cooperative State Research, Education, and Extension Service demonstrates that as little as 10 hours of classroom instruction can impart substantial knowledge and affect significant change in how teens handle their money;

Whereas State educational leaders have recognized the importance of providing a basic financial education to students in grades kindergarten through 12 by integrating financial education into State educational standards, but by 1999 only 14 States

required schools to implement personal finance standards into the academic curriculum;

Whereas teacher training and professional development are critical to achieving youth financial literacy;

Whereas teachers confirm the need for professional development in personal finance education;

Whereas in a survey by the National Institute for Consumer Education, 77 percent of a State's economics teachers revealed that they had never had a college course in personal finance;

Whereas personal financial education helps prepare students for the workforce and for financial independence by developing their sense of individual responsibility, improving their life skills, and providing them with a thorough understanding of consumer economics that will benefit them for their entire lives;

Whereas financial education integrates instruction in valuable life skills with instruction in economics, including income and taxes, money management, investment and spending, and the importance of personal savings;

Whereas the consumers and investors of tomorrow are in our schools today; and

Whereas the teaching of personal finance should be encouraged at all levels of our Nation's educational system, from kindergarten through grade 12: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress encourages—

(1) the Secretary of Education to use funds available in the Fund for the Improvement of Education (part A of title X of the Elementary and Secondary Education Act of 1965) to promote personal financial literacy programs; and

(2) State and local educational agencies to incorporate personal financial management curriculums into their education programs.

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Michigan (Mr. KILDEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the author of the resolution before us.

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

Mr. DREIER. Madam Speaker, I would like to begin by extending my great appreciation to the gentleman from Wisconsin (Mr. PETRI) and to the gentleman from Michigan (Mr. KILDEE) and to the hard-working members of their staff who have helped us put together this very important piece of legislation.

The gentleman from Wisconsin (Mr. PETRI) very appropriately described it at the outset. We all know that we live in a global economy; and, as such, it is very important for our young people to be prepared to compete.

One of the issues that we have dealt with in this House is to make sure that we have qualified expertise to deal with the high-tech industry, the industry that has created 45 percent of our gross domestic product growth in the past 3 years.

I think that education can, in fact, allow us to ensure that in the future we will have qualified Americans to do not only those jobs in the high-tech industry but a wide range of other jobs. There is a very important component of that, and it is financial literacy.

For a number of years, an organization known as the Jumpstart Coalition has been focusing on this. I have been working with a number of people to make sure that we would get this legislation moved, and that is why I again express my appreciation to those on the committee who have provided us with very important assistance.

It is unfortunate that bankruptcy filings are very high. They continue to move up. Consumer debt is at an all-time high. And, as we all know, the rate of savings in this country is at a very low level. So it is more important now than ever, I believe, for us to teach young people about the importance of how to manage money and their credit.

The survey that was done by that organization I just mentioned, the Jumpstart Coalition, which is a private nonprofit group that promotes financial literacy, gave only 5 percent of the 12th graders a C grade or better when asked about their financial management skills. However, financial management instruction, based on empirical evidence that we have, does work.

The National Endowment for Financial Literacy conducted a study and found that as little as 10 hours of classroom instruction can affect how teens handle their money. Fifty-eight percent of the students who had that 10 hours, in fact, we were able to see improvement in their spending habits, and 56 percent of those students who benefitted from that 10 hours of training actually improved their personal savings habits.

Now, this resolution, as was pointed out by the gentleman from Wisconsin (Mr. PETRI), simply encourages the Secretary of Education to give our teachers and schools extra resources to teach financial literacy to our kids. The measure is a common-sense approach to addressing educational needs at the Federal level by providing States with resources while also, something that is very important in this 106th Congress, ensuring that the flexibility is there in designing and implementing those education programs that they deem absolutely necessary.

Now, there was a survey that was done by the American Savings and Education Council that found that 79 percent of students have never taken a personal financial course; and of those who took a 3-month course, 41 percent then began saving, 28 percent increased their savings, and 19 percent of them developed their own budget.

Right now, about 94 percent of students learn about money from their parents. So, keeping in mind this last statistic and the fact that personal savings rates are at a very low level and bankruptcies are high, it seems to me that financial instruction outside of the home is a very important thing.

This resolution is aimed to educate our youth in the importance of financial literacy, but it also aims to serve the disadvantaged youth who need to be equipped with financial management skills as they tend to enter the workforce at an even earlier age.

The measure does not create or encourage a new program. It does not encourage a new program to address these needs. It simply allows the Secretary of Education to provide assistance to those high schools seeking to fill a void in knowledge thought to be obtained in the home.

So again, let me just say in closing, as we charge towards the millennium and look at the importance of our remaining competitive globally, we need to ensure that financial literacy is a component of that.

I want to express my appreciation to the gentleman from Wisconsin (Mr. PETRI) and to the gentleman from Michigan (Mr. KILDEE) and again to the hard-working members of their staff and to say that we are moving ahead with what I think is a very important measure.

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

Madam Speaker, I rise in support of H. Con. Res. 213, encouraging the Secretary of Education to promote financial literacy as part of the State and local education programs.

The authors of this resolution, the gentleman from North Dakota (Mr. POMEROY) and the gentleman from California (Mr. DREIER), should be commended for bringing this issue to the attention of the House.

Federal funding through Title I and other programs have focused on reading, writing, and mathematics to ensure that children, especially disadvantaged children, can compete with their peers academically. These programs have been critical in giving our Nation's children an opportunity to succeed.

While we have been focusing our energies on academic success in the core subject areas, many young people still lack basic skills in personal financial management. Many American high school students are unable to balance a checkbook, and most simply have no insight into the basic survival skills associated with earning, spending, saving and investing.

As a result, too many young Americans develop bad financial management habits and stumble through their lives learning by trial and error.

H. Con. Res. 213 raises the awareness of the Congress to the issue of financial literacy. With bankruptcies totaling over 1 million every year, more and more of our teens and young adults desperately need some focus on financial training and literacy. Being financially literate ensures that today's children will make better informed decisions in purchasing homes, buying cars, and investing for college education or retirement.

This resolution, which encourages both the Secretary of Education and

State and local educational agencies to promote financial literacy, is an important step forward in recognizing a solution to this pressing problem.

Again, I want to thank the authors of this resolution for bringing it before us today.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, although our economy remains strong, some of us in Congress believe that we should be focusing our efforts to find ways to address our Nation's high consumer debt, numerous bankruptcies, and unacceptably low savings rate.

A way to focus our efforts on solving these problems without merely treating the symptoms is to increase our Nation's children's knowledge about and appreciation of financial literacy. I join my distinguished colleague the gentleman from California (Mr. DREIER) in expressing my view that educating our Nation's youth about personal finance should be a priority for our schools across the country.

The Jumpstart Coalition for Personal Financial Literacy recently found that the average student who graduates from high school lacks basic skills in the management of personal financial affairs. Students are unable to balance a checkbook and have little or no insight in the basic financial principles involved with earning, spending, saving, and investing.

In its nationwide survey conducted in 1997, the Jumpstart Coalition examined the knowledge of over 1,500 12th graders. On average, survey respondents answered only 57 percent of the questions correctly, and only 5 percent of the respondents received a grade of C or better.

Evidently, many young people fail in the management of their first consumer credit experience, establishing bad financial management habits, and stumble through their lives as consumers learning by trial and error.

Our Nation's students are taught about a multitude of subjects, including reading, writing, history, mathematics, science, and the list goes on. But do we teach our children how to balance a checkbook? Do we teach them about compounding interest? Do we teach them about the necessity of good credit? Do we train students to understand how to budget their money and about their relationship between taxes, spending, and investing?

Madam Speaker, because of our students' inability to understand and manage finances, it should come as no surprise that our Nation's personal bankruptcies are at an all-time high and personal savings rates at an all-time low.

Despite the importance of youth financial education, the average American high school senior lacks these basic skills and is unable to manage personal financial affairs. However, these shortcomings when properly addressed can be turned around.

A recent study by the National Endowment for Financial Education has shown that personal finance education improves students' saving and spending habits and money management skills.

Madam Speaker, I am pleased to support H. Con. Res. 213, introduced by our colleagues, the gentleman from California (Mr. DREIER) and the gentleman from North Dakota (Mr. POMEROY), to promote financial literacy training.

Specifically, this resolution encourages the Secretary to use funds available from the Fund for the Improvement of Education, Part A of Title X of the Elementary and Secondary Education Act, to promote personal literacy programs.

In addition, H. Con. Res. 213 encourages States and local educational agencies to incorporate personal financial management curriculums into their education programs.

Madam Speaker, we all know that an investment in education is an investment in our future. It is time we focus on efforts to promote financial literacy to help ensure that our children will have the tools they need to prosper in the next millennium.

I urge my colleagues to support the resolution before us.

Madam Speaker, I reserve the balance of my time.

Mr. KILDEE. Madam Speaker, I yield 4 minutes to the gentleman from North Dakota (Mr. POMEROY), a sponsor of the bill.

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

Madam Speaker, I rise in strong support of H. Con. Res. 213.

In passing this resolution, Congress will take an important step forward in recognizing the importance of youth financial education to the future of our Nation's children.

Today's global economy demands more of our young people than ever before. Young people are making important financial decisions long before they enter the workforce. In order to make informed choices regarding personal finances, our children have to have proper skills and experience to manage their money and prepare for their future.

This resolution expresses the sense of Congress that personal financial education plays an important role in securing our children's future. This is not just a lofty goal, it is an urgent priority. Because survey after survey has demonstrated average high school seniors in this country lack even basic knowledge of personal financial affairs.

A nationwide survey conducted in 1997 by the Jumpstart Coalition for Personal Financial Literacy looked at the basic financial information of 1,500 high school seniors. One in five answered seven out of ten questions successfully, not a passing grade for our seniors.

Because of their lack of financial knowledge, many American students run into financial trouble in college. An estimated 50 to 70 percent of all college students own at least one credit card, with debts ranging between $580 and $725.

Yesterday the Washington Post ran a story about a student who had to drop out of school to pay off $2,500 in credit card debt. Youth financial education could help prevent this situation. Young adults who understand the cost of credit will not fall prey to the high cost of interest rates and mounting credit card debt.

The crisis, of course, in financial literacy goes far beyond our high schools. American investors lack basic knowledge of financial concepts.

□ 1045

A 1996 poll showed that fewer than one in five Americans are what we call financially literate. Only half of all adults in this country, for example, understand that investment diversification actually reduces investment risk. So it should come as no surprise that personal bankruptcies are at an all-time high. Adults in this country need to understand basic financial concepts in order to provide for their families and prepare for their retirements and we need to get the information out there starting in the school years. I would hope in following up on this resolution, this body would also adopt a piece of legislation that the gentleman from California (Mr. DREIER) and I have introduced, H.R. 2871, the Youth Financial Education Act. That bill would commit $500,000 to carry out the financial education programs in elementary and secondary schools. This legislation encourages State and local education agencies to integrate financial education into existing courses, such as economics or mathematics, and devotes resources necessary to develop teacher training and professional development activities in personal financial education. I look forward to working with my colleagues on both sides of the aisle to include H.R. 2871 in the Elementary and Secondary Education Act later this year.

Clearly, we must do a better job of preparing our children to make informed decisions about money, how to use it, and how to prepare for their future. The question then becomes how we concentrate our efforts, and I believe the answer lies in our schools, with our children and their teachers, and not enough to rely on the ad hoc, the wonderful but totally ad hoc efforts, we need to put in a curriculum.

Mr. PETRI. Madam Speaker, I yield such time as he may consume to the gentleman from California (Mr. GARY MILLER).

Mr. GARY MILLER of California. Madam Speaker, I rise in strong support for the Financial Literacy Training Act. This resolution encourages State and local educational agencies to incorporate personal financial management curricula into their educational program system.

Prior to being in politics, I was in the development industry for about 30

years. The old statement that it is easier to earn money than it is to keep it is a true statement and this goes a long way to basically giving young people the financial training that they need.

When you get money, what do you do with it? It is like giving a young person $10. What does a young person do with it? Do they have any concept of what they should do with their finances, any concept of where that money should be placed, or should the money just be spent? We need to teach our young people how to invest money and what to do with money once they earn it.

In the building industry, we watch many, many builders go broke because they succeeded in a given project and they failed in the future because they did not understand financial planning, did not understand what they should do in the future. The best way to resolve this is to be involved with the young people, to give them the financial training and financial literacy that they need when they are young.

I would like to commend the gentleman from California (Mr. DREIER), he represents a neighboring district in California, for his hard work and effort in drafting this important piece of legislation. If we are going to invest anywhere, let us invest in our children. If we are going to invest in our children, let us teach them how to invest the assets that they acquire, teach them how to invest in their future and plan for their future.

Mr. KILDEE. Madam Speaker, I yield 4 minutes to the gentleman from Wisconsin (Mr. KIND).

Mr. KIND. I thank the ranking member for yielding me this time.

Madam Speaker, I rise today in strong support of this resolution. It is very appropriate and important for this Congress to encourage the Federal, State and local education policymakers to incorporate course work on personal finance as part of our children's education.

There are some worrisome trends that the young people of this country now face, Madam Speaker. It is no secret that the number of bankruptcies filed in this country has skyrocketed in recent years, but a closer look at the trends are truly frightening.

Twenty years ago, the total number of bankruptcy filings was just under 332,000 people. According to the American Bankruptcy Institute, the total number of filings for 1998 was a staggering 1.5 million people. Even more startling is the fact that while the number of business filings for 1998 is almost equal to the number filed back in 1980, the number of consumer filings for bankruptcy has increased by almost five-fold. In fact, 97 percent of all bankruptcies are now filed by consumers rather than businesses. In my home State of Wisconsin, 5,000 bankruptcy claims were filed just in the second quarter of 1999.

Another trend that supports the call for better K–12 education in personal finance is the use of credit cards among young adults. Just yesterday, the Washington Post carried an article describing the ease at which college freshmen can get credit cards and the extent to which college students amass credit card debt. Fifty-five to 70 percent of college students own at least one credit card, and experts believe that number is growing. Furthermore, the average American household carries four credit cards, with balances of $5,000. Consumer debt in this country tops $1.2 trillion, $540 billion of which is in revolving credit. And as a Nation we have a negative per capita savings rate today.

Madam Speaker, there can be no doubt that our children need to know basic finance principles and skills before they become consuming adults. I realize it seems that there are advocates for a wide variety of issues who identify one more subject that must be added to the core requirements of reading, writing and arithmetic but, Madam Speaker, without at least a basic understanding of personal finance and finance principles generally, our young people enter a brave new world as unprepared as they would be without being able to read.

In this day and age, people are handling their finances in ways only professionals would just 5 or 10 years ago. We do not use cash to make purchases that much. We pay with credit cards. Or we choose to use a debit card instead of checks. How many workers do not make substantive choices involving how their retirement funds are being invested? Fewer and fewer. In a world of global trade and e-commerce, young people who do not understand the importance of fiscal responsibility and the long-term consequences of reckless spending will suffer deeply for years to come.

As a member of the Committee on Education and the Workforce, I am glad to see that this measure addresses the need to provide better, or in some instances basic training and professional development for the teachers. Too many teachers complain that they do not themselves have the background to adequately teach their students about personal money management. We just passed a major teacher training and professional development bill about 3 months ago, and this resolution nicely complements that piece of legislation.

We often speak of the need for the government to make tough choices and exercise fiscal responsibility. I submit that each American must also exercise wise judgment in personal finances. Our national debt is the cause of much concern and gut-wrenching debate here on Capitol Hill. Young people must also recognize that personal debt is nothing to take lightly. This is especially true given the need for more and more college students to take out sizeable loans to finance their education.

I ask my colleagues to join in support of this resolution today, and in my sincere hope that schools nationwide will be able to offer key personal finance education to all of our students.

Mr. KILDEE. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SANCHEZ).

Ms. SANCHEZ. I thank the gentleman for yielding me this time.

Madam Speaker, I rise in strong support of this bill, and I thank my friends on the other side of the aisle, my fellow Members from California, for bringing this matter to the House's attention.

I am very saddened by the statistics that reveal the financial illiteracy that plagues our young people. Many American high school students are unable to balance a checkbook, and they really have no training in the basics of financial life, how to earn, how to spend, how to save and how to invest.

Without teaching our students these skills, we force young people to learn these lessons by trial and error, and by the costly mistakes that result. In an era where young people have the highest access to credit cards in American history, yet no training in how to responsibly manage this responsibility, can we be surprised that debt and bankruptcy are so much on the rise?

A nationwide survey conducted in 1997 by the Jump Start Coalition for Financial Literacy tested 1,509 12th graders on four knowledge areas, income, money management, savings and investment, and spending. Sadly, only 5 percent of the respondents received a ''C'' grade or higher. Five percent.

Madam Speaker, these rates are abysmal. We can and we must do better. I commend the sponsors of this legislation. I urge my colleagues to support it.

Ms. SANCHEZ. Mr. Speaker, I thank the gentleman for yielding. I rise in strong support of H. Con. Res. 213. I thank my friends on the other side of the aisle, my fellow Members from California, for bringing this matter to the House's attention.

I am very saddened by the statistics that reveal the financial illiteracy plaguing our young people. Many American high school students are unable to balance a checkbook. They really have very little training in the basics of financial life—how to earn, spend, save and invest.

Without teaching our students these skills, we force young people to learn these lessons by trial and error—and by the costly mistakes that result.

In an era where young people have the highest access to credit cards in American history, yet no training in how to responsibly manage this opportunity, can we be surprised that debt and bankruptcy are on the rise?

A nationwide survey conducted in 1997 by the Jump$tart Coalition for Financial Literacy, tested 1,509 12th graders on four knowledge areas: income, money management, savings and investment, and spending. Only 5 percent of the respondents received a ''C'' grade or higher.

Mr. Chairman, these rates are abysmal. We can and must do better.

I commend the sponsors of this legislation and urge my colleagues to support it.

Mr. KILDEE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 213.

The question was taken.

Mr. PETRI. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. PETRI. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Con. Res. 213.

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

There was no objection.

SENSE OF HOUSE THAT U.S. REMAINS COMMITTED TO NATO

Mr. GILMAN. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 59) expressing the sense of the House of Representatives that the United States remains committed to the North Atlantic Treaty Organization (NATO), as amended.

The Clerk read as follows:

H. RES. 59

Whereas for 50 years the North Atlantic Treaty Organization (hereafter in this preamble referred to as ''NATO'') has served as the preeminent organization to defend the territories of its member states against all external threats;

Whereas NATO, founded on the principles of democracy, individual liberty, and the rule of law, has proved an indispensable instrument for forging a trans-Atlantic community of nations working together to safeguard the freedom and common heritage of its peoples, and promoting stability in the North Atlantic area;

Whereas NATO has acted to address new risks emerging from outside the treaty area in the interests of preserving peace and security in the Euro-Atlantic area, and maintains a unique collective capability to address these new challenges which may affect Allied interests and values;

Whereas such challenges to NATO Allied interests and values include the potential for the re-emergence of a hegemonic power confronting Europe; rogue states and non-state actors possessing nuclear, biological, or chemical weapons and their means of delivery; transnational terrorism and disruption of the flow of vital resources; and conflicts outside the treaty area stemming from unresolved historical disputes and the actions of undemocratic governments and sub-state actors who reject the peaceful settlement of disputes;

Whereas the security of NATO member states is inseparably linked to that of the whole of Europe, and the consolidation and strengthening of democratic and free societies on the entire continent, in accordance with the principles and commitments of the Organization for Security and Cooperation in Europe, is of direct and material concern to the NATO Alliance and its partners;

Whereas the 50th anniversary NATO summit meeting, held on April 24–25, 1999, in Washington, D.C., provided an historic opportunity to chart a course for NATO in the next millennium;

Whereas NATO enhances the security of the United States by providing an integrated military structure and a framework for consultations on political and security concerns of any member state;

Whereas NATO remains the embodiment of United States engagement in Europe and therefore membership in NATO remains a vital national security interest of the United States;

Whereas the European members of NATO are today developing within the Alliance a European Security and Defense Identity (ESDI) in order to enhance their role within the Alliance, while at the same time the European Union (EU) is seeking to forge among its members a Common Foreign and Security Policy (CFSP);

Whereas the Berlin decisions of 1996 provided the framework for strengthening the European pillar in NATO;

Whereas NATO should remain the core security organization of the evolving Euro-Atlantic architecture in which all states enjoy the same freedom, cooperation, and security;

Whereas NATO has embarked upon an historic mission to share its benefits and patterns of consultation and cooperation with other nations in the Euro-Atlantic area through both enlargement and active partnership;

Whereas the membership of the Czech Republic, Hungary, and Poland has strengthened NATO's ability to perform the full range of NATO missions and bolstered its capability to integrate former communist adversary nations into a community of democracies;

Whereas the organization of NATO national parliamentarians, the NATO Parliamentary Assembly, serves as a unique transatlantic forum for generating and maintaining legislative and public support for the Alliance, and has played a key role in initiating constructive dialogue between NATO parliamentarians and parliamentarians in Central and Eastern Europe; and

Whereas NATO Parliamentary Assembly activities, such as the Rose-Roth program to engage and educate Central and Eastern European parliamentarians, have played a pioneering role in familiarizing the new democracies with democratic institutions and a civil society: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the North Atlantic Treaty Organization (hereafter in this resolution referred to as ''NATO'') is to be commended for its pivotal role in preserving trans-Atlantic peace and stability;

(2) the new NATO strategic concept, adopted by the Allies at the summit meeting held in Washington, D.C. in April of 1999, articulates a concrete vision for the Alliance in the 21st century, clearly setting out the continued importance of NATO for the citizens of the Allied nations, and establishing that defense of shared interests and values is as important for peace and stability as maintaining a vigorous capability to carry out collective defense;

(3) the Alliance, while maintaining collective defense as its core function, should, as a fundamental Alliance task, identify crisis management operations outside the NATO treaty area, based on case-by-case consensual Alliance decisions;

(4) the Alliance must recognize and act upon the threat posed by the proliferation of weapons of mass destruction and terrorism by intensifying consultations among political and military leaders, and deploying comprehensive capabilities to counter these threats to the international community at the earliest possible date;

(5) the Alliance should make clear commitments to remedy shortfalls in areas such as logistics, command, control, communications, intelligence, ground surveillance, readiness, deployability, mobility, sustainability, survivability, armaments cooperation, and effective engagement, including early progress in the NATO force structure review;

(6) the Alliance must ensure equitable sharing of contributions to the NATO common budgets and overall defense expenditure and capability-building;

(7) the Alliance should welcome efforts by members of the European Union (EU) to strengthen their military capabilities and enhance their role within the Alliance through the European Security and Defense Identity (ESDI);

(8) the key to a vibrant and more influential ESDI is the improvement of European military capabilities that will strengthen the Alliance;

(9) in order to preserve the solidarity and effectiveness that has been achieved within the Alliance over the last 50 years, it is essential that security arrangements elaborated under the EU's Common Foreign and Security Policy (CFSP) complement, rather than duplicate NATO efforts and institutions, and be linked to, rather than decoupled from NATO structures, and provide for full and active involvement of all European Allies rather than discriminating against European Allies that are not members of the EU;

(10) the Alliance should remain prepared to extend invitations for accession negotiations to any appropriate European democracy meeting the criteria for NATO membership as established in the Alliance's 1995 Study on NATO Enlargement and section 203(d)(3)(A) of the NATO Participation Act of 1994 (22 U.S.C. 1928 note), on the same conditions as applied to the Czech Republic, Hungary, and Poland;

(11) while maintaining its unchallenged right to make its own decisions, NATO should seek to strengthen its relations with Russia and Ukraine as essential partners in building long-term peace in the Euro-Atlantic area; and

(12) the Alliance should fully support the NATO Parliamentary Assembly's activities in enhancing and stabilizing parliamentary democracy in the nations of Central and Eastern Europe, ensuring ratification of appropriate new NATO members, continuing to deepen cooperation within the Alliance, and forging democratic links with the new European democracies.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from New York (Mr. CROWLEY) each will control 20 minutes.

Mr. ROHRABACHER. Madam Speaker, I rise in opposition to the resolution and claim control of the time for the opposition.

The SPEAKER pro tempore. Is the gentleman from New York (Mr. CROWLEY) in favor of the motion?

Mr. CROWLEY. Yes, I am, Madam Speaker.

The SPEAKER pro tempore. On that basis, pursuant to clause 1(c) of rule XV, the gentleman from California (Mr. ROHRABACHER) will control the 20 minutes reserved for the opposition.

Mr. GILMAN. Madam Speaker, I ask unanimous consent that the gentleman from New York (Mr. CROWLEY) be permitted to control 10 minutes of my time and that he be able to yield that time.

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

There was no objection.

GENERAL LEAVE

Mr. GILMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this measure.

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

There was no objection.

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

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

Mr. GILMAN. Madam Speaker, I commend the gentleman from Nebraska (Mr. BEREUTER) for his initiative in bringing this resolution forward. The gentleman from Nebraska serves as the chairman of our Subcommittee on Asia and the Pacific and chairs the House delegation to the NATO Parliamentary Assembly. And I commend the original cosponsors the gentleman from Virginia (Mr. BLILEY), the gentleman from New York (Mr. BOEHLERT) and the gentleman from California (Mr. LANTOS) for joining in this effort and for sharing with us their expertise in European security matters.

House Resolution 59 expresses the sense of the House of Representatives that the North Atlantic Treaty Organization has for 50 years served as the preeminent organization to defend the territory of its member states against all external threats; welcomes the admission to NATO last March of Poland, Hungary, and the Czech Republic; and reiterates that America's NATO membership remains a vital national security interest of our Nation.

These are sentiments to which we can all enthusiastically subscribe, and it is only fitting that we reaffirm them this year as we celebrate the 50th anniversary of NATO's founding.

I am particularly pleased that this resolution touches on two additional matters that are important to the future of NATO and that warrant the full attention of the House of Representatives.

The first of these matters is NATO enlargement. Beyond welcoming the recent addition of Poland, Hungary and the Czech Republic to the Alliance, House Resolution 59 expresses Congress' unequivocal support for the so-called ''open door'' policy toward future NATO enlargement that was articulated at the NATO summit meeting in Madrid, Spain, in July of 1997. That open door policy is a powerful signal of hope that we offer to the emerging democracies of Central and Eastern Europe that have not yet been invited to join NATO. It further underscores that we are mindful of their security concerns, that we consider them future allies, and that we remain determined to facilitate their integration into the mainstream of Europe. The gentleman from Connecticut (Mr. GEJDENSON) and I led the House delegation to the Madrid summit and we strongly supported their decisions at that time.

□ 1100

Congress expressed its support for the open door policy in the European Security Act which the House first passed in 1997 and which President Clinton signed into law last year. It is helpful for the Congress to reiterate its support for this open door policy, particularly inasmuch as NATO's Washington summit last April disappointed some of the aspiring NATO Members in Central and Eastern Europe of postponing for the time giving any serious consideration of their candidacies for full membership in NATO.

The second important matter addressed by House Resolution 59 is the ongoing effort to rethink their relationship with NATO. I am referring here to such an issue as the European Security and Defense Identity within NATO, the so-called ESDI, and the European Union's Common Foreign and Security Policy, or the CFSP.

To the degree that these initiatives are about European allies contributing more to our common defense within NATO, we applaud them. After all, most of us would have been delighted if our European allies had been able to handle the Bosnian crisis on their own or if they could have contributed more to the allied operations in Kosovo.

But many of us are troubled by indications that these initiatives may be the first step toward a divorce between the European and North American pillars of NATO. Some of our European allies seem to long for an independent military capability, one that is not just separable from NATO, but that is separate.

Last December in Saint-Malo, France, the United Kingdom and France issued a declaration calling for the establishment of a ''national or multinational European means outside the NATO framework.''

Subsequent to the Cologne Summit last June, the leaders of the European Union declared that the Union ''must have the capacity for autonomous action backed by credible military forces, the means to decide to use them and a readiness to do so without prejudice to actions by NATO.''

For those of us who have long supported the transatlantic security bond that is represented by NATO, these are troubling sentiments. If the European Union develops a security mechanism on the Continent that excludes not only our Nation but also all the other non-European Members of NATO, including such important allies as Norway, Poland, and Turkey, then very serious damage will have been done to the fabric of the transatlantic security bond, and the logic of the continued U.S. security commitments to Europe that may be called into question.

Madam Speaker, House Resolution 59 addresses this concern by pointing out that the key to a vibrant and a more influential ESDI is not new institutions, but the improvement of European military capabilities. The resolution further causes our allies in the European Union to elaborate their CFSP in a manner that does not duplicate NATO efforts and institutions, is not decoupled from NATO, and does not discriminate against European allies like Norway, Poland, and Turkey that are members of the EU. These are important concerns that need to be discussed within the alliance.

Accordingly, Madam Speaker, for these reasons, I urge the House to agree to House Resolution 59.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, first of all let me say I have the utmost respect for the chairman of this committee, the gentleman from New York (Mr. GILMAN), who has done a tremendous job in leading our Committee on International Relations. The gentleman has the respect of everyone who deals with him. He has been one of the most fair and thoughtful chairmen of the committee that we have had, and I respectfully disagree with him on this issue, as well as respectfully disagree with my good friend, the gentleman from Nebraska (Mr. BEREUTER), who we have a disagreement, but these type of fundamental disagreements is what democracy is all about.

Let me say that 20 years ago when we talked about NATO I was one of NATO's biggest boosters. As a speech writer for Ronald Reagan during the height of the Cold War, I worked to strengthen NATO and worked diligently to see that NATO would remain what it was supposed to be; and it was designed specifically to deter a land attack by the Soviet Union on Western Europe. NATO succeeded brilliantly. It helped stave off that attack until the Soviet Union collapsed in the weight of communism's vile contradictions as well as its own evil. But the Cold War is over. It is time for us to take a fundamental look at what our post-Cold War strategy will be and what is in the best interests of the United States now that the Cold War is over.

There are new threats now to world peace, especially in the Pacific, and we have got to re-analyze where our priorities will be. Continuing to spend our limited resources on NATO actually

undermines America's ability to deal with the number one threat to world peace, which, as I say, is on the other side of the planet from Europe. Specifically world peace is most greatly threatened now by the aggressiveness of Communist China. If we are to confront this threat to the world, we cannot just spend the money and resources that we have, the limited resources we have, protecting Western Europe against an invasion from the Soviet Union which no longer exists.

We are told we must continue this spending of our limited defense dollars on NATO because it provides stability in Europe. Well, let the Europeans provide their own stability.

I recently met, along with the gentleman from New York (Chairman GILMAN), the head of the German Bundestag, and, as a matter of fact, he told me that Germany would be spending less, not more, on its defense for at least the next 5 years.

Well, why should the Europeans not think, Let the Americans do it? Because we are doing it for them. We are subsidizing the cost for the defense of people and nations who are much richer than we are.

Furthermore, our continued commitment to NATO is bound to get us mixed up in more conflicts like Bosnia and Kosovo. With the expansion of NATO, we will start hearing about conflicts like the one in Moldova. Now, we may sympathize with one faction or the other in Moldova, but do we really want to open up the possibility of sending our troops there as part of a NATO peacekeeping operation to ensure the stability of Europe? I do not think so.

America has a vital role to play in determining the future of this planet and preserving peace and freedom on this planet. Our task has been, since the Second World War, to take on the biggest threats to democracy and freedom, threats that, if it were not for us, would irreversibly alter the balance of power toward tyranny and militarism.

During the Second World War we saved the world from the Nazis and the Japanese militarists. We can be very proud of that. During the Cold War we stood firm against the Soviet Union and Communist expansion.

Using our limited resources now for the stability of Europe, or to bring about peace to every troubled spot, to right every wrong, is counterproductive idealism and will weaken our ability to confront the major challenges to peace and freedom on this planet.

NATO is the European way of playing we Americans as suckers once again. If we try to do everything for everybody, we will not be able to do anything for anybody. We will not be able to protect our own national security interests in the long run.

This is not isolationism. This is a sound policy of an engagement strategy of picking and choosing commitments of where to spend our limited dollars.

So, with that, I would ask people to consider seriously whether we should be supporting the expansion of NATO, or even America's current role in NATO.

Madam Speaker, I reserve the balance of my time.

Mr. CROWLEY. Madam Speaker, I yield myself 2½ minutes.

Madam Speaker, I rise in strong support of H.R. 59, as amended. I would like to commend the gentleman from Nebraska (Mr. BEREUTER) for introducing this resolution. Fifty years of membership in this extraordinary alliance has reaffirmed that NATO is at the heart of American national security.

The original resolution passed our committee unanimously back in March. Understandably, in the wake of the military conflict in Kosovo, the full House postponed consideration of this matter. I am glad today we can resume deliberation on this worthy resolution.

This resolution, as amended, makes technical changes to update the bill's chronology and to reflect the success of the Washington summit earlier this year. In addition, the resolution now expresses the sense of Congress about the building efforts among our European allies to create a stronger European Security and Defense Identity, ESDI, and a Common Foreign and Security Policy, CFSP.

I once again commend the majority for cooperating with the minority in crafting this language on this issue. I also want to thank the chairman for allowing us this 10 minutes of debate. Along with the administration, we in Congress support these efforts by our European allies to shoulder a greater burden of military activities within NATO.

In concert with the administration, we stress that these new efforts build on and compliment existing cooperation between the North American and European allies. Our partnership has provided security on the European continent for half a century. Today, in the aftermath of a Cold War, a strong NATO is as important as ever. If Bosnia and Kosovo have taught us anything, it is that security problems and the threats of war have not evaporated from the heart of Europe simply because the Soviet Union no longer exists.

As I have said many times, we should always keep a door open for future membership for nations that will strengthen NATO and the security outlook in Europe. At the same time, we must also look to continually strengthen our relations with Russia and our partnership with them in the Ukraine in building long-term peace in Europe.

Madam Speaker, I again commend the gentleman from Nebraska (Mr. BEREUTER) for including this language in the resolution. I urge my colleagues to support this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Speaker, I yield 5 minutes to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Madam Speaker, there are three problems with this resolution. The first is that the NATO treaty is defensive only, and by this resolution we expand NATO's purposes to permit actions outside of the defensive area of the NATO members.

Secondly, the mechanism for approval of such actions in this resolution is referred to as ''a case by case consensual alliance'' decision, which, to me, is incompatible with the constitutional requirement that the use of force, in a context that a normal understanding would call war, would have to be done by resolution of both Houses of Congress.

Third and last, because of the timing of this resolution, particularly that it was introduced on February 11 during the Kosovo war, I believe that it is open to the misinterpretation as a ratification, admittedly posthoc ratification, of the use of force under the NATO aegis in that context.

I draw specific attention now to the text of the resolution that supports each of these three points. On page 4, the resolved clause says that the new NATO strategic concept ''articulates a concrete vision'' establishing that ''defense of shared interests and values'' is ''as important for peace and stability as maintaining a vigorous capability to carry out collective defense.''

I pause in my quotation for a moment. So whereas the original NATO treaty deals with collective defense, this resolution says it is equally important that we prosecute shared interests and values. What are those shared interests and values?

The answer is found on Page 2 in the whereas clauses, we learn what some of those are. ''Whereas such challenges to NATO allied interests and values include . . .'' continuing quote, ''conflicts outside the treaty area stemming from unresolved historical disputes.'' An obvious reference, at least to me, given the date of this resolution in February of this year, to the Kosovo war, and an obvious example (I could not ask for a more clear one) of the use of force outside the treaty area, whereas the NATO treaty itself specifies that the NATO countries will treat an attack upon the sovereign integrity of anyone as an attack upon all. It was a defensive territorial-focused treaty.

Lastly, on page 5, in the third resolved clause, beginning on page 4, the resolution provides that the alliance should, again just picking out the words, now I quote, ''identify crisis management operations outside the NATO treaty area based on a case-by-case consensual alliance decision.''

In other words, the alliance will make its decisions on a consensual basis for when to go outside of area. That is what it says, outside of the NATO treaty area, outside of the authorized area for the use of force under the terms of the NATO treaty as it was ratified by the Senate.

□ 1115

And who will decide? It will be by consensual decisions of the Alliance, not by the Senate and House of the United States Congress, which is what the Constitution requires.

I close with a word of concern about my effort to try to instill respect for the Constitution in the area of war-making authority. I have fought to bring the resolution regarding the war to the floor during the Kosovo war. I am happy to say that we did our constitutional duty. We stood up and said no, we did not authorize the use of force.

Nevertheless, the President went ahead and for 79 days bombed Yugoslavia which was not at war with the United States, which had not threatened the territorial integrity of a single NATO country. In that context, this resolution was introduced.

It will appear to a court, I believe, as though we are today sending a message of ratification that we did not at that time. Nor is this an extreme or far-fetched belief, because the Federal District Court, in rejecting the lawsuit with which I followed my actions on the House floor, the Federal District Court ruled that a Member of Congress lacked standing to assert the Constitution when there was war happening in Kosovo, that a Member of Congress could not bring the lawsuit.

The reason the judge said so was not because of what Congress had done in voting against the use of force, in voting against the bombing, but what Congress had not done: that the House had not voted to withdraw the troops. In other words, the Federal District judge took an implication from the failure of the House to act.

That is a remarkable stretch for judicial interpretation. How much more easily will a court interpret a resolution we pass today applauding the use of extraterritorial NATO force, according to consensual NATO processes?

I fear for the Nation when the safeguards placed in operation by our Founders in the Constitution are cavalierly set aside, as I believe they were during the Kosovo war. I have nothing but the highest regard for those who offered this resolution, but I must disagree with their effort.

Mr. GILMAN. Madam Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER), the distinguished chairman of our Subcommittee on Asia and the Pacific.

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

Mr. BEREUTER. Madam Speaker, I thank the chairman for yielding me this time, and for the good survey that he has provided in his initial comments.

One of the reasons this legislation is so important, the resolution being moved today, is because many of us have concerns about the new European pillar that would be created within the European Union as a result of the Franco-British accord and the Cologne summit of the EU that followed. There is the likelihood, the way things are proceeding, that the European pillar, the ESDI, would be created outside NATO within the European Union.

As the chairman indicated, we are concerned about decoupling this European capacity from NATO, that is one D; about discrimination against members of NATO that are not members of the European Union, that is the second D; and about duplication of effort, the third D, duplication between NATO's capacities and the capacity that would be created within the European Union.

For these reasons addressed by the resolve clause in this resolution, its passage is particularly important today.

I do want to assure the gentleman from California (Mr. ROHRABACHER) that I certainly understand the security concerns we have in the Asia-Pacific region. After all, as the chairman of that subcommittee, I focus on these things. But as this resolution puts forth, there are other concerns today that the members of NATO really did not expect to be facing. They relate, for example, to proliferation of weapons of mass destruction and terrorism.

I would say to my colleague, the gentleman from California (Mr. CAMPBELL), that I think his concerns, which are legitimate in general, are overwrought and do not directly relate to this resolution.

It is true the resolution was originally introduced in February. It is not meant to have nor do I think it does have any impact upon a ratification of the use of force with respect to Bosnia or in Kosovo, for that matter.

I want to also emphasize for my colleagues that nothing provided in our NATO membership impinges upon the constitutional guarantees for the use of force, for example, in which Congress should have a role, which this Congressman from California has diligently been trying to pursue, to his credit. This does not impinge upon the constitutional processes of any member state, including the United States.

I would say this point needs to be made to the gentleman, that any kind of out-of-area action by NATO must be held to the standard that that kind of out-of-area action must be important to the security of one or more of the members of NATO. That is the only justification for out-of-area action by NATO forces. Even if it is a combined joint task force, a coalition, if the U.S. would participate, we must insist upon that out-of-area action being important to the security of one or more of the members of NATO, of the 19 countries that are part of that treaty.

I think it is an important resolution to pass. I think it is particularly important in light of what is happening in the European Union.

Mr. ROHRABACHER. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BARTLETT).

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, deep under the Ural Mountains, under a mountain called Yamantau, the Russians continue to build and expand the world's largest, deepest, most nuclear-secure facility.

Started under Brezhnev, they have now spent $4.5 billion on this super-secret facility. They are doing this, and by the way, they are now increasing, they are ramping up their efforts. They are doing this at a time when they cannot pay their military, when they cannot provide housing for their military.

I asked my colleagues and I asked administration officials, why would they do this? What I am told is they do this because they are paranoid.

I have had a super top secret code word briefing on what is called silver bullets. These are efforts on the part of the Russians to leapfrog our war-making capabilities. They know they cannot compete with us in conventional weaponry, so they are seeking to leapfrog our technologies so our war-making capabilities will be neutralized.

I asked again, why would they do this? What I am told is they do this because they are paranoid. They have so many, so many needs in their country, why would they spend money doing this?

If they are doing these things because they are paranoid, then I ask the question, why would we want to feed their paranoia by expanding NATO? They see NATO as a threat. Why would we want to feed their paranoia? NATO may have a role to play. That role should not be in antagonizing the Russians, in feeding their paranoia. If we are to pass a resolution like this, it needs to be reworded so it will not be threatening to the Russians.

Mr. CROWLEY. Madam Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. KIND).

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

Mr. KIND. Madam Speaker, I have read the resolution. I do not view any word in the resolution as threatening in any way to Russia. That is why I can rise in strong support of the resolution today.

There is no doubt that America must remain firmly committed to NATO, as it remains firmly committed to ensuring the peace and stability on the European continent and throughout the North Atlantic region.

This resolution was drafted in anticipation of the 50th anniversary of NATO held here in Washington last April. For 50 years NATO has stood as the preeminent defense alliance protecting this Nation, its allies, and its vital interests from the threat of aggression and the threat of regional instability.

For 50 years NATO has provided this Nation with the invaluable opportunity to remain constantly and actively engaged with its key allies. For 50 years

NATO has proven that Nations sharing common ideologies, common values, and common goals can in fact stand stronger together than if alone, and can maintain peace in difficult, dangerous times.

Fifty years ago, NATO was created to hedge against the spread of tyranny in a war-ravaged Europe. At the time there were doubters, those who believed, even after the United States found itself drawn into two world wars within 25 years, that we should go it alone and close the gates to fortress America.

Thankfully, this country did not adopt such a strategy. Instead, we employed the Marshall Plan to rebuild Europe from the ashes of conflict, and we established NATO to provide for the defense against the post-war totalitarianism in the region.

Isolationism did not prevail then, and it is very appropriate, 50 years after the creation of that Alliance, to deflect the scattered cries for a new form of isolationism in this country.

For 40 years NATO stood not only as a line of defense but as an incredibly effective deterrent. For the last 10 years NATO has stood ready to preserve European stability. It has been successful in its evolving mission. Most recently, and while facing very daunting challenges, NATO has sought to bring peace and stability to the Balkans, the very region that provided the spark that led to the conflagration known as the First World War.

Back in 1949, many in the United States claimed that we should not be engaged in Europe because we could not maintain peace in a region naturally drawn to war. It was argued then that the history of Europe was one of nationalism and ethnic extremism, and war among those nations was inevitable. Yet, because of NATO, Western Europe has seen one of the most peaceful and prosperous periods in its history.

Throughout the nineties we have heard the same argument regarding any attempts to maintain peace in central Europe. In fact, not many months ago, many in this House insisted that NATO would not remain unified in its action against the tyranny of Milosevic. Yet the Alliance stood firm, and military success was achieved.

The peace will be hard fought, but by tapping into the resolve and commitment of exhibited by the members of NATO, which now including members close to the Balkans, peace and stability can be established in the wake of military successes.

NATO ENLARGEMENT

This resolution also commemorates the enlargement of NATO to include Poland, Hungary, and the Czech Republic. The success of NATO and its members' drive to contain, and ultimately de-construct, Soviet authoritarianism, has led to the flourishing of democratic movements throughout Central and Eastern Europe. The inclusion in NATO of three key nations formerly bound by the Iron Curtain speaks volumes for the power of the alliance and its relevance in today's changing geopolitical landscape.

NEW THREATS DEMANDS A COMMITMENT TO NATO

As this nation, its allies, and the alliances to which we belong, face new and unconventional threats from rogue nations, terrorist states and weapons of mass destruction, the deterrent effect of NATO remains relevant and vital. If those who would commit atrocities can look to the cohesiveness and determination of a broader reaching NATO, they will be more likely to give pause to any rash acts against alliance members or their interests. The United States must maintain a leadership role in NATO's preparedness against these new threats. Our citizens travel the world. Their government must be there with them—strong and committed.

No alliance, no strategy, and no plan creates certainty in international relations. However, NATO's unparalleled success in protecting Europe and the North Atlantic region proves that, with courage and determination, this Nation can boldly assert the values of democracy and peace.

In conclusion, let me just commend today not only the institution of NATO and its member nations but those who actually make the peace possible, our troops stationed abroad with their Alliance colleagues, working together to ensure the mutual security of all our families.

I look forward to the future successes of NATO and the ideals it protects.

Mr. ROHRABACHER. Madam Speaker, I yield 1 minute to the gentleman from Florida (Mr. GOSS).

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

Mr. GOSS. Madam Speaker, I thank my friend and colleague, my classmate from California, and even though we do have a disagreement in this, his generosity shows in letting us discuss this and having a useful debate.

I want to thank the gentleman from New York (Chairman GILMAN) and the gentleman from Nebraska (Chairman BEREUTER) for their extraordinary leadership on this issue.

I think it is important to know that it is a different world today and a more dangerous world. NATO has been the anchor for our national security in Europe for lo these many decades, since the Second World War. It still is our anchor. It is still a value-added organization for the member states and their related partners in the organization for a couple of reasons.

First, the common defense is very obvious. Greater efforts toward peace and stability are what we all strive at when we are dealing with foreign affairs and national security.

Secondly, the interrelationships between the member states to stress working cooperation on areas where they can cooperate, rather than to relate to some of the differences they have had historically that have led to tragic consequences on that continent, I think is a very important by-product of the NATO organization.

But third, and the thing that is before us today, and the reason this resolution is so important to support, is the challenge of how should NATO focus its energies in today's world and what should NATO's capabilities therefore be.

I think it is critically important that the United States of America be a very strong voice in those deliberations and in those decisions and the discussion. I think that is exactly why we are here today sending a resolution saying we will be a strong voice, and also resolving some of the issues that our colleagues, the gentleman from California (Mr. CAMPBELL) and the gentleman from California (Mr. ROHRABACHER), have brought forward properly that do need to be resolved.

Mr. CROWLEY. Madam Speaker, I yield 2 minutes to my friend, the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER. Madam Speaker, for 50 years it has been ritualistic for American public officials in public bodies to affirm support and solidarity for NATO. We should remember why. NATO was formed as a protection against the possibility of a Soviet attack, armed attack, armed aggression, against Western Europe, and to bring the United States and Western Europe together as a defense alliance.

That purpose and that danger no longer exists. NATO nonetheless has many other purposes, and they are properly delineated in this resolution.

□ 1130

I must oppose this resolution nonetheless because of three paragraphs in it. The resolution states, ''approval for the membership of the Czech Republic, Hungary and Poland in NATO and invites further enlargement of NATO from other former Warsaw Pact countries,'' and then says contradictorily, ''NATO should seek to strengthen its relations with Russia and Ukraine as its central partners in building long-term peace in the Euro Atlantic area.''

Madam Speaker, the Soviet Union no longer exists, but Russia is still a large nation and potentially a friendly one or potentially a dangerous one, and our policy should be directed at trying to enhance those forces within Russia, trying to transform that country into a democratic market economy, into a friendly country, into a responsible country, instead of doing what we can to provoke nationalistic forces, to provoke xenophobic forces, to provoke dictatorial forces in Russia.

The expansion of NATO is a direct provocation to all segments of Russia's political spectrum; weakens the democratic forces; weakens the pro-market forces, weakens the pro-Western forces and strengthens the xenophobic and ultranationalistic forces. It is unnecessary, and it makes this world a more dangerous place.

This resolution, were it not for those three paragraphs, would be worthy of support and with those three paragraphs it goes in the wrong direction and I urge its defeat.

Mr. ROHRABACHER. Madam Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Madam Speaker, NATO was originally formed in 1949 as a defensive alliance. It was formed to protect against attacks, not to initiate attacks. Moreover, NATO's charter, Article 5 defines the alliance as ''collective defense against armed attack and limits NATO to attacking only in self-defense.'' Article 5 of the NATO treaty states, ''the parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all.''

I believe that nations should have that security and have the ability to defend themselves against unprovoked aggression. NATO provided this blanket of security for the North Atlantic countries for the past 50 years. That is why Hungary, the Czech Republic, Poland, wanted to join. This is why Lithuania, Latvia, Estonia, Croatia, Romania and others want to join NATO, for increased protection, for increased security; and so NATO has changed.

The recent attack on the Federal Republic of Yugoslavia was the first action ever taken by NATO against a sovereign nation. This action did not satisfy Article 5 of the NATO charter, which limits NATO to defensive attacks. No country attacked a NATO country prior to the NATO attack in the Kosovo province and Yugoslavia.

So while today this resolution would recommit the United States to NATO and European security, we must honestly ask if the mission of NATO and the NATO treaty was violated by the Kosovo bombing. In mid-April as the war continued over Yugoslavia, NATO modified its charter combining both defensive and offensive actions. The strategic concept, which Congress will endorse with this resolution, now states in part 4, section 41, that NATO ''must be prepared to contribute to conflict prevention and to conduct non-Article 5 crisis response operations,'' end of quote, which means NATO can conduct unilateral bombing against any nation.

This is a blank check to wage war. The implications of this change will be serious, and this Congress must take note of it so that NATO does not become a law unto itself, a blind, unconscious force which usurps democrat process and values and becomes an impersonal force, and it is more powerful than individual nations.

If NATO is endorsed as an offensive force, what does this mean? Does it mean an end to the United Nations security role? Will it mean that NATO may act unilaterally anywhere in the world according to what it deems is a threat? Does it mean that there are no limits to NATO's potential military actions, since all NATO has to do is to change its charter to justify mission creep?

Now, I support the defensive security which NATO has to offer. NATO was formed to protect against attacks, not to initiate attacks.

I believe that this Congress must retake its role as described in the constitution, article 1, Section 8, that this Congress has the power and the authority alone to put this country into war. We should not cede it to a President, and we should not cede it to the North Atlantic Treaty Organization.

Mr. CROWLEY. Madam Speaker, I yield 2½ minutes to the gentleman from Nebraska (Mr. BEREUTER).

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

Mr. BEREUTER. Madam Speaker, I thank the gentleman from New York (Mr. CROWLEY) for his generosity in yielding me this time.

Another gentleman from New York talked about his concerns about the expansion of NATO, and I understand that there is controversy about the fact that the Czech Republic and Poland and Hungary were brought into the first tranche of new membership, moving the membership from 16 to 19, but the Congress in both Houses by various means in direct action on the floor of the House and the Senate have approved that expansion and our executive branch has implemented it by the treaty change.

In fact, I think there is strong sentiment to responsibly, carefully expand NATO as other countries prepare and do meet the qualifications for membership. It is certainly understandable why the countries of Eastern and Central Europe want to be a part of NATO. NATO, after all, was founded on the principle of the rule of law and individual liberty.

It has become the cornerstone of Western peace and prosperity. It has permitted a sharing of the burden of national defense where all 16 countries, now 19, agree that attack on one is an attack against all. Because we no longer have a looming threat to our very survival since the collapse of the Iron Curtain and the absolute significance of this collective guarantee has faded from some memories, the gentleman of Maryland (Mr. BARTLETT) has just reminded us about the need for NATO. I think he reinforced the need for NATO. I think it is fair to say, therefore, that without NATO, tens of millions, perhaps hundreds of millions of people would have been subjected to continuing tyranny.

NATO has been a dramatic success; and now, as I mentioned, Europe, our NATO allies and indeed the United States faces a whole range of additional threats and concerns which, in part, the gentleman from Florida (Mr. GOSS) spoke to a few minutes ago. NATO nevertheless remains the ultimate bulwark against a reemergence of a destabilizing hegemonic power. We hope that is not Russia but, in fact, some of the concerns that the gentleman from Maryland raised are there in people's minds. We are extending, in a variety of fashions, through the NATO structure, a hand of peace and assistance to Russia and indeed the Ukraine, but they have to be willing to accept it; and we are committed to working with them.

I think it is important that we focus finally on why it is that this resolution is before us. It is a concern that NATO may be weakened to address traditional mutual defense responsibilities or new threats to NATO countries by a dividing of the European Union's responsibilities with NATO.

Mr. ROHRABACHER. Madam Speaker, I yield 30 seconds to the gentleman from New York (Mr. GILMAN).

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

The SPEAKER pro tempore (Mrs. BIGGERT). The gentleman from New York (Mr. GILMAN) is recognized for 45 seconds.

Mr. GILMAN. Madam Speaker, I thank the gentleman from California (Mr. ROHRABACHER) for yielding me time.

Madam Speaker, in conclusion let me reiterate that the U.S. continues to have a vital interest in a strong and in an enlarged NATO. To my colleague from California (Mr. ROHRABACHER), I would say that he and I agree about the threats to international peace and security that exist and are growing in the Asia Pacific region; but it is helpful to us, not harmful, to be an alliance with like-minded democracies as we develop strategies to address these threats. We are infinitely stronger in dealing with countries like China and North Korea when we combine resources and align ourselves with the democracies in Western Europe.

To the gentleman from California (Mr. CAMPBELL), I say that there is nothing in this resolution that suggests or is intended to suggest that we are surrendering our constitutional prerogatives to declare war when NATO contemplates military action.

Mr. ROHRABACHER. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Madam Speaker, the chairman of our full committee gave his assurance and he is a man of honor and I am grateful for that assurance on the Record. However, the words of the resolution say that we commend NATO for choosing, as a new role, to identify crisis management operations outside the NATO treaty area based on case-by-case consensual alliance decisions, and the resolution was dated February 11, in the middle of the Kosovo war.

Madam Speaker, there is no ambiguity that this will be taken as an approval for the mechanism that was being used at that moment. My dear friend, the gentleman from Nebraska (Mr. BEREUTER), says that the NATO treaty is consistent with the constitution. Yes, but the war in Kosovo was not; it was not.

The House did not declare war. The Senate did not declare war. And it was war. The President said it was armed conflict, not war. The American people know it was war, and in the midst of that war when this resolution was introduced, this resolution says that we applaud and agree with this new task

for NATO to choose crisis management operations outside the treaty area.

Mr. ROHRABACHER. Madam Speaker, I yield myself 1½ minutes.

Madam Speaker, today we have heard a very useful debate, but it is a very serious debate; and it is especially serious for the next generation of Americans. Where are we going to put our emphasis? Where are we going to put our dollars? Where are we going to put our commitments? NATO costs between $10 billion and $20 billion every year just to be a part of NATO.

After 5 years of spending with NATO or 10 years of NATO spending, we could have a missile defense system for the United States of America, but we are giving that up by simply providing $10 billion to $20 billion a year for European stability.

This resolution is designed, of course, for the expansion of NATO, and by its very nature will cause fear in Russia and, as the gentleman from New York (Mr. NADLER) pointed out, is counterproductive, will lead to worse relations with Russia when we should be trying to help the democratic elements in Russia not fear the United States of America. It will leave us weaker in the Pacific.

Finally, as this resolution is designed, it is designed to get us into more conflicts like Bosnia, like Kosovo, and perhaps in Africa, perhaps in Moldavia. We do not need to waste our precious resources and risk the lives of our people in these conflicts around the world. That is what this resolution is designed to do. It is a blank check for America's young people to go overseas and to spend our limited defense dollars in a counterproductive way.

NATO served its purpose. Let us declare victory in the Cold War and come home and set our new priorities which have more to do with the reality of today than the reality of 20 years ago and 40 years ago. I oppose this resolution.

Mr. ROHRABACHER. Madam Speaker, I yield 30 seconds to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Madam Speaker, I want to thank the gentleman from California (Mr. ROHRABACHER) for yielding me additional time.

Madam Speaker, in conclusion, NATO has served our national interest well for the last 50 years, will serve us well into the future and will help consolidate and expand democracy in Europe, and it will strengthen the forces of democracy in dealing with the emerging threats in Asia and elsewhere. This resolution is not a blank check that Congress must author. This is an important resolution. I urge my colleagues to fully support it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in favor of House Resolution 59 to express the sense that the House should remain committed to the North Atlantic Treaty Organization. For fifty years NATO has protected our borders and the borders of our allies, preserving democracy, the rule of law and individual liberties. NATO has served as an important forum for promoting stability in the North Atlantic region and is representative of the collective effort of the North Atlantic states defending members against security risks. Indeed NATO remains the preeminent institution for addressing future external threats.

NATO has played a key role in developing democracies and instilling democratic ideals in Central and Eastern Europe. This too helps to solidify the security of the rest of the North Atlantic region.

Recognizing that the security of NATO member states is inseparably linked to that of the whole of Europe, and the consolidation and strengthening of democratic and free societies on the entire continent is an important concern to the NATO Alliance and its partners.

For these reasons, the House of Representatives should commend NATO and its work and should support its future efforts to maintain peace and stability in the North Atlantic region. The House must remain committed to the Alliance and should promote the adoption of a strategic concept clearly establishing that defense of shared interests and values that are as important for peace and stability as maintaining a vigorous capability to carry out collective defense.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, House Resolution 59, as amended.

The question was taken.

Mr. ROHRABACHER. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1145

FOREIGN NARCOTICS KINGPIN DESIGNATION ACT

Mr. GILMAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3164) to provide for the imposition of economic sanctions on certain foreign persons engaging in, or otherwise involved in, international narcotics trafficking.

The Clerk read as follows:

H.R. 3164

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 ''Foreign Narcotics Kingpin Designation Act''.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Presidential Decision Directive 42, issued on October 21, 1995, ordered agencies of the executive branch of the United States Government to, inter alia, increase the priority and resources devoted to the direct and immediate threat international crime presents to national security, work more closely with other governments to develop a global response to this threat, and use aggressively and creatively all legal means available to combat international crime.

(2) Executive Order No. 12978 of October 21, 1995, provides for the use of the authorities in the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701 et seq.) to target and apply sanctions to 4 international narcotics traffickers and their organizations that operate from Colombia.

(3) IEEPA was successfully applied to international narcotics traffickers in Colombia and based on that successful case study, Congress believes similar authorities should be applied worldwide.

(4) There is a national emergency resulting from the activities of international narcotics traffickers and their organizations that threatens the national security, foreign policy, and economy of the United States.

(b) POLICY.—It shall be the policy of the United States to apply economic and other financial sanctions to significant foreign narcotics traffickers and their organizations worldwide to protect the national security, foreign policy, and economy of the United States from the threat described in subsection (a)(4).

SEC. 3. PURPOSE.

The purpose of this Act is to provide authority for the identification of, and application of sanctions on a worldwide basis to, significant foreign narcotics traffickers, their organizations, and the foreign persons who provide support to those significant foreign narcotics traffickers and their organizations, whose activities threaten the national security, foreign policy, and economy of the United States.

SEC. 4. PUBLIC IDENTIFICATION OF SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS AND REQUIRED REPORTS.

(a) PROVISION OF INFORMATION TO THE PRESIDENT.—The Secretary of the Treasury, the Attorney General, the Secretary of Defense, the Secretary of State, and the Director of Central Intelligence shall consult among themselves and provide the appropriate and necessary information to enable the President to submit the report under subsection (b). This information shall also be provided to the Director of the Office of National Drug Control Policy.

(b) PUBLIC IDENTIFICATION AND SANCTIONING OF SIGNIFICANT FOREIGN NARCOTICS TRAFFICKERS.—Not later than June 1, 2000, and not later than June 1 of each year thereafter, the President shall submit a report to the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives; and to the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate—

(1) identifying publicly the foreign persons that the President determines are appropriate for sanctions pursuant to this Act; and

(2) detailing publicly the President's intent to impose sanctions upon these significant foreign narcotics traffickers pursuant to this Act.

The report required in this subsection shall not include information on persons upon which United States sanctions imposed under this Act, or otherwise on account of narcotics trafficking, are already in effect.

(c) UNCLASSIFIED REPORT REQUIRED.—The report required by subsection (b) shall be submitted in unclassified form and made available to the public.

(d) CLASSIFIED REPORT.—(1) Not later than July 1, 2000, and not later than July 1 of each year thereafter, the President shall provide the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate with a report in classified form describing in detail the status of the sanctions imposed under this Act, including the personnel and resources directed towards the

imposition of such sanctions during the preceding fiscal year, and providing background information with respect to newly identified significant foreign narcotics traffickers and their activities.

(2) Such classified report shall describe actions the President intends to undertake or has undertaken with respect to such significant foreign narcotics traffickers.

(3) The report required under this subsection is in addition to the President's obligation to keep the intelligence committees of Congress fully and completely informed of the provisions of the National Security Act of 1947.

(e) EXCLUSION OF CERTAIN INFORMATION.—

(1) INTELLIGENCE.—Notwithstanding any other provision of this section, the reports described in subsections (b) and (d) shall not disclose the identity of any person, if the Director of Central Intelligence determines that such disclosure could compromise an intelligence operation, activity, source, or methods of the United States.

(2) LAW ENFORCEMENT.—Notwithstanding any other provision of this section, the reports described in subsections (b) and (d) shall not disclose the name of any person if the Attorney General, in coordination as appropriate with the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, and the Secretary of the Treasury, determines that such disclosure could reasonably be expected to—

(A) compromise the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution that furnished information on a confidential basis;

(B) jeopardize the integrity or success of an ongoing criminal investigation or prosecution;

(C) endanger the life or physical safety of any person; or

(D) cause substantial harm to physical property.

(f) NOTIFICATION REQUIRED.—(1) Whenever either the Director of Central Intelligence or the Attorney General makes a determination under subsection (e), the Director of Central Intelligence or the Attorney General shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, and explain the reasons for such determination.

(2) The notification required under this subsection shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate not later than July 1, 2000, and on an annual basis thereafter.

(g) DETERMINATIONS NOT TO APPLY SANCTIONS.—(1) The President may waive the application to a significant foreign narcotics trafficker of any sanction authorized by this title if the President determines that the application of sanctions under this Act would significantly harm the national security of the United States.

(2) When the President determines not to apply sanctions that are authorized by this Act to any significant foreign narcotics trafficker, the President shall notify the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate not later than 21 days after making such determination.

(h) CHANGES IN DETERMINATIONS TO IMPOSE SANCTIONS.—

(1) ADDITIONAL DETERMINATIONS.—(A) If at any time after the report required under subsection (b) the President finds that a foreign person is a significant foreign narcotics trafficker and such foreign person has not been publicly identified in a report required under subsection (b), the President shall submit an additional public report containing the information described in subsection (b) with respect to such foreign person to the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate.

(B) The President may apply sanctions authorized under this Act to the significant foreign narcotics trafficker identified in the report submitted under subparagraph (A) as if the trafficker were originally included in the report submitted pursuant to subsection (b) of this section.

(C) The President shall notify the Secretary of the Treasury of any determination made under this paragraph.

(2) REVOCATION OF DETERMINATION.—(A) Whenever the President finds that a foreign person that has been publicly identified as a significant foreign narcotics trafficker in the report required under subsection (b) or this subsection no longer engages in those activities for which sanctions under this Act may be applied, the President shall issue public notice of such a finding.

(B) Not later than the date of the public notice issued pursuant to subparagraph (A), the President shall notify, in writing and in classified or unclassified form, the Permanent Select Committee on Intelligence, and the Committees on the Judiciary, International Relations, Armed Services, and Ways and Means of the House of Representatives, and the Select Committee on Intelligence, and the Committees on the Judiciary, Foreign Relations, Armed Services, and Finance of the Senate of actions taken under this paragraph and a description of the basis for such actions.

SEC. 5. BLOCKING ASSETS AND PROHIBITING TRANSACTIONS.

(a) APPLICABILITY OF SANCTIONS.—A significant foreign narcotics trafficker publicly identified in the report required under subsection (b) or (h)(1) of section 4 and foreign persons designated by the Secretary of the Treasury pursuant to subsection (b) of this section shall be subject to any and all sanctions as authorized by this Act. The application of sanctions on any foreign person pursuant to subsection (b) or (h)(1) of section 4 or subsection (b) of this section shall remain in effect until revoked pursuant to section 4(h)(2) or subsection (e)(1)(A) of this section or waived pursuant to section 4(g)(1).

(b) BLOCKING OF ASSETS.—Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this Act, and notwithstanding any contract entered into or any license or permit granted prior to the date on which the President submits the report required under subsection (b) or (h)(1) of section 4, there are blocked as of such date, and any date thereafter, all such property and interests in property within the United States, or within the possession or control of any United States person, which are owned or controlled by—

(1) any significant foreign narcotics trafficker publicly identified by the President in the report required under subsection (b) or (h)(1) of section 4;

(2) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a significant foreign narcotics trafficker so identified in the report required under subsection (b) or (h)(1) of section 4, or foreign persons designated by the Secretary of the Treasury pursuant to this subsection;

(3) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as owned, controlled, or directed by, or acting for or on behalf of, a significant foreign narcotics trafficker so identified in the report required under subsection (b) or (h)(1) of section 4, or foreign persons designated by the Secretary of the Treasury pursuant to this subsection; and

(4) any foreign person that the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, designates as playing a significant role in international narcotics trafficking.

(c) PROHIBITED TRANSACTIONS.—Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this Act, and notwithstanding any contract entered into or any license or permit granted prior to the date on which the President submits the report required under subsection (b) or (h)(1) of section 4, the following transactions are prohibited:

(1) Any transaction or dealing by a United States person, or within the United States, in property or interests in property of any significant foreign narcotics trafficker so identified in the report required pursuant to subsection (b) or (h)(1) of section 4, and foreign persons designated by the Secretary of the Treasury pursuant to subsection (b) of this section.

(2) Any transaction or dealing by a United States person, or within the United States, that evades or avoids, or has the effect of evading or avoiding, and any endeavor, attempt, or conspiracy to violate, any of the prohibitions contained in this Act.

(d) LAW ENFORCEMENT AND INTELLIGENCE ACTIVITIES NOT AFFECTED.—Nothing in this Act prohibits or otherwise limits the authorized law enforcement or intelligence activities of the United States, or the law enforcement activities of any State or subdivision thereof.

(e) IMPLEMENTATION.—(1) The Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, is authorized to take such actions as may be necessary to carry out this Act, including—

(A) making those designations authorized by paragraphs (2), (3), and (4) of subsection (b) of this section and revocation thereof;

(B) promulgating rules and regulations permitted under this Act; and

(C) employing all powers conferred on the Secretary of the Treasury under this Act.

(2) Each agency of the United States shall take all appropriate measures within its authority to carry out the provisions of this Act.

(3) Section 552(a)(3) of title 5, United States Code, shall not apply to any record or information obtained or created in the implementation of this Act.

(f) JUDICIAL REVIEW.—The determinations, identifications, findings, and designations made pursuant to section 4 and subsection (b) of this section shall not be subject to judicial review.

SEC. 6. AUTHORITIES.

(a) IN GENERAL.—To carry out the purposes of this Act, the Secretary of the Treasury may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(1) investigate, regulate, or prohibit—

(A) any transactions in foreign exchange, currency, or securities; and

(B) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interests of any foreign country or a national thereof; and

(2) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent, or prohibit any acquisition, holding, withholding, use, transfer, withdrawal, transportation, placement into foreign or domestic commerce of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(b) RECORDKEEPING.—Pursuant to subsection (a), the Secretary of the Treasury may require recordkeeping, reporting, and production of documents to carry out the purposes of this Act.

(c) DEFENSES.—

(1) Full and actual compliance with any regulation, order, license, instruction, or direction issued under this Act shall be a defense in any proceeding alleging a violation of any of the provisions of this Act.

(2) No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to, and in reliance on this Act, or any regulation, instruction, or direction issued under this Act.

(d) RULEMAKING.—The Secretary of the Treasury may issue such other regulations or orders, including regulations prescribing recordkeeping, reporting, and production of documents, definitions, licenses, instructions, or directions, as may be necessary for the exercise of the authorities granted by this Act.

SEC. 7. ENFORCEMENT.

(a) CRIMINAL PENALTIES.—(1) Whoever willfully violates the provisions of this Act, or any license rule, or regulation issued pursuant to this Act, or willfully neglects or refuses to comply with any order of the President issued under this Act shall be—

(A) imprisoned for not more than 10 years,

(B) fined in the amount provided in title 18, United States Code, or, in the case of an entity, fined not more than $10,000,000,

or both.

(2) Any officer, director, or agent of any entity who knowingly participates in a violation of the provisions of this Act shall be imprisoned for not more than 30 years, fined not more than $5,000,000, or both.

(b) CIVIL PENALTIES.—A civil penalty not to exceed $1,000,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

(c) JUDICIAL REVIEW OF CIVIL PENALTY.—Any penalty imposed under subsection (b) shall be subject to judicial review only to the extent provided in section 702 of title 5, United States Code.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) ENTITY.—The term ''entity'' means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any form of business collaboration.

(2) FOREIGN PERSON.—The term ''foreign person'' means any citizen or national of a foreign state or any entity not organized under the laws of the United States, but does not include a foreign state.

(3) NARCOTICS TRAFFICKING.—The term ''narcotics trafficking'' means any illicit activity to cultivate, produce, manufacture, distribute, sell, finance, or transport narcotic drugs, controlled substances, or listed chemicals, or otherwise endeavor or attempt to do so, or to assist, abet, conspire, or collude with others to do so.

(4) NARCOTIC DRUG; CONTROLLED SUBSTANCE; LISTED CHEMICAL.—The terms ''narcotic drug'', ''controlled substance'', and ''listed chemical'' have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(5) PERSON.—The term ''person'' means an individual or entity.

(6) UNITED STATES PERSON.—The term ''United States person'' means any United States citizen or national, permanent resident alien, an entity organized under the laws of the United States (including its foreign branches), or any person within the United States.

(7) SIGNIFICANT FOREIGN NARCOTICS TRAFFICKER.—The term ''significant foreign narcotics trafficker'' means any foreign person that plays a significant role in international narcotics trafficking, that the President has determined to be appropriate for sanctions pursuant to this Act, and that the President has publicly identified in the report required under subsection (b) or (h)(1) of section 4.

SEC. 9. EXCLUSION OF PERSONS WHO HAVE BENEFITED FROM ILLICIT ACTIVITIES OF DRUG TRAFFICKERS.

Section 212(a)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(C)) is amended to read as follows:

''(C) CONTROLLED SUBSTANCE TRAFFICKERS.—Any alien who the consular officer or the Attorney General knows or has reason to believe—

''(i) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assister, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

''(ii) is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity,

is inadmissible.''.

SEC. 10. EFFECTIVE DATE.

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

The SPEAKER pro tempore (Mrs. BIGGERT). Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from New York (Mr. CROWLEY) each will control 20 minutes.

Mr. NADLER. Madam Speaker, I rise to claim the time in opposition since I gather that both gentlemen from New York, Mr. GILMAN and Mr. CROWLEY, are in support.

The SPEAKER pro tempore. Is the gentleman from New York (Mr. CROWLEY) in favor of the motion?

Mr. CROWLEY. Yes, I am, Madam Speaker.

The SPEAKER pro tempore. On that basis, pursuant to clause 1(c) of rule XV, the gentleman from New York (Mr. NADLER) will control the 20 minutes reserved for the opposition.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Madam Speaker, I am pleased to yield 10 minutes to the gentleman from Florida (Mr. MCCOLLUM), and I ask unanimous consent that he be permitted to control the time as he may deem appropriate.

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

There was no objection.

Mr. NADLER. Madam Speaker, since this side ought to be represented in support also, I yield 10 minutes to the gentleman from New York (Mr. CROWLEY), and I ask unanimous consent that he be permitted to control that time.

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

There was no objection.

GENERAL LEAVE

Mr. GILMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3164.

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

There was no objection.

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

Madam Speaker, the gentleman from Florida (Mr. GOSS) and the gentleman from Florida (Mr. MCCOLLUM) and our leadership are to be complimented on moving forward on H.R. 3164. This important effort improves the tools needed to tackle the critical problem of international drug traffickers and those who knowingly transact and do business with these kingpins.

This bill, by expanding and regularizing the authority for the President to routinely block the property of major drug kingpins, after the required June 1 listing of these kingpins, deprives them of access to the United States market and to our financial system. It makes it clear that our Nation is serious about confronting the threat that they pose to our Nation and to its people.

After this bill becomes law, it is no longer going to be business as usual for these global drug kingpins, for their relatives and business associates and front companies.

Today we are moving forward with an important new initiative in our war on drugs. Now we will routinely implement the application of blocking assets

and denying these global drug traffickers and their associates access to our markets and to our financial services.

There can be no more important tools in our arsenal against international drug traffickers who target our Nation and its young people than asset forfeiture, disruption of their business transaction and their dealings.

With regard to the drug traffickers, there must be no safe havens or untouched illicit assets for those who would destroy our communities and the lives of our young people by shipping their poisons into our Nation.

Three Presidents have called illicit drug trafficking a serious national security threat to our Nation. Such a threat warrants a serious response, including this expanded authority to maintain economic pressure on these drug traffickers.

Greater international cooperation, the ability to bring to justice here in the United States those who would violate our laws and would destroy our communities, and taking away their illicit assets and ability to do business are all vital tools in our war on drugs. These tools must be expanded and enhanced even further in our fighting drugs.

Whether these drug kingpins be from Thailand, from Colombia, from Mexico, or elsewhere around the globe, they must be held accountable to the American people, to our institutions, and to all the laws they violate, making us the targets of their criminal activity.

These drug traffickers, their families and business associates should certainly not be able to benefit financially in their drug trade, for example, seeking to enroll their children in our best schools and our institutions of higher learning with their illicit proceeds from the destruction they visit on our society.

Denying them the fruits of their crimes and entry visas for their families to come to our Nation is another significant way to help ensure that their illicit practice will be ended.

This bill will provide overall help, improve our efforts to hold these major drug kingpins accountable. It will help take the profit and benefit out of their deadly drug trade. For those relatives, associates, and businesses that transact with these drug kingpins, the bill before us indicates that our Nation is prepared to act and to take the profit out of the drug trade.

Madam Speaker, I was honored to be an original cosponsor of this proposal that has previously passed the Senate, and I am pleased to help move forward with this proposal before we adjourn this first session of the 106th Congress. Accordingly, I urge my colleagues to join with us in this important initiative.

Madam Speaker, I yield the balance of my time to the gentleman from Florida (Mr. MCCOLLUM), and I ask unanimous consent that he be permitted to control that time.

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

There was no objection.

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

Madam Speaker, I rise in opposition to this legislation which I believe possesses the threat of turning what Members of this House would consider a laudable goal, cracking down on drug dealers, into a much more dangerous enterprise.

This bill allows the President or the FBI or the Treasury Department or the CIA to designate any person in the world as a drug kingpin, to seize his or her assets, and to make an average American subject to a decade in prison for doing business with such people.

The bill sets no standards for such a designation. The designation requires no proof. The designation cannot, according to this bill, be challenged or reviewed by a court of law. There is simply no way provided to make the Government provide the proof we expect.

It also appears to bar the family, the American families of any such individuals from entering the United States. Is this the America we want, an America in which the President or some Federal bureaucrat can simply designate someone as a bad guy and exclude American-born individuals from the country, and freeze the assets of anyone they desire, some of the assets which may be owed to law-abiding citizens? Can we really suspend all judicial review and say to hell with due process? What is the remedy if the bureaucracy gets the wrong person?

It would have been nice to have had a hearing on this bill and to look at some of these questions in committee, but we did not. This bill was not reviewed by the Committee on the Judiciary or by the Subcommittee on the Constitution. It was rushed to the floor with no adult supervision, which seems to mark every aspect of Republican rule on Capitol Hill these days.

Real people will have to live with this bill. We owe all Americans a duty to be careful and conscientious in the work we do, not to endow the executive with untrammeled power over individual liberty in order to make a statement.

This bill is an embarrassment to this House and a danger to our freedoms. Constitutional liberty and due process are precious to this country. Millions of our citizens have fought and died for liberty. In the 1950s, the fear of Communism was used to justify invasions of our traditional liberties. The Supreme Court overturned some of those invasions.

Now that international Communism is no longer a threat to us, fear of drugs is leading us down the same sad road to overturn our constitutional liberties, to overturn the due process that alone protects us and differentiates us from the Communist tyrannies we opposed. In the name of the war against drugs, we should not overturn liberty.

How can we say that the President or some bureaucrat can designate anyone they want without any evidence, without any proof, without any standards, and say that person will have his property seized, that person can go to no court, can get no review, can confront no witnesses? The court of Star Chamber would have been ashamed, and this House should be ashamed and not pass this bill.

Madam Speaker, I reserve the balance of my time.

Mr. MCCOLLUM. Madam speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 3164, the Foreign Narcotics Kingpin Designation Act of 1999, is a bill to identify, expose, isolate, and incapacitate the businesses and the agents of major drug traffickers all over the world and deny them access to the United States financial system and to the benefits of trade and transactions involving U.S. businesses and individuals.

United States individuals and companies are prohibited from engaging in unlicensed transactions, including any commercial or financial dealings, with any designated major drug trafficker or kingpin. Properties and assets of these drug kingpins located in the United States are blocked or frozen.

This bill is the product of several months of consultations involving the Select Committee on Intelligence, Committee on International Relations, the Committee on the Judiciary, and the Committee on Ways and Means, as well as the detailed negotiations with the National Security Council, the Treasury Department, the State Department, the Justice Department, and the intelligence community. The Clinton administration has carefully reviewed this legislation and now supports this bill.

Madam Speaker, the gentleman from New York (Chairman GILMAN) of the House Committee on International Relations, the gentleman from Illinois (Chairman HYDE) of the Committee on the Judiciary have each waived jurisdiction and consideration of the bill in committee so that it can come to the floor today prior to the conclusion of this session.

Although it did not receive referral on H.R. 3164, the Committee on Ways and Means staff were consulted and offered language changes which were incorporated into this bill.

I introduced an earlier version of this language with the gentleman from Florida (Mr. GOSS), the gentleman from New York (Mr. RANGEL), and the gentleman from New York (Mr. GILMAN) last May. Senators COVERDELL and FEINSTEIN did likewise on the Senate side and were successful in attaching the proposal to the Intelligence Authorization bill by unanimous consent of the Senate.

Unfortunately, the intelligence conference has been stalled due to other

issues. In order to move the important national security legislation that is involved here, the sponsors decided last week to offer this bill as a stand-alone for consideration of all the Members.

Unlike earlier and more limited sanctions initiatives, the kingpins bill is global in scope and focuses on major narco-trafficking groups in Mexico, Colombia, the Caribbean, Southeast Asia, and Southwest Asia. The legislation is carefully designed to focus our government's efforts against the specific individuals most responsible for trafficking illegal narcotics by attacking their sources of income and undermining their efforts to launder their drug profits in legitimate business activities.

The precedent for H.R. 3164 was the highly successful application of sanctions since 1995 against the Cali Cartel narco-trafficking organization and its key leaders. Executive Order 12978, issued by the Clinton administration in October of 1995, has had the effect of dismantling and defunding numerous business entities tied to the Cali Cartel. The Specially Designated Narcotics Trafficker sanctions program has been renewed every year, most recently this year, and has had significant impact on both the Cali and the North Coast drug cartels in Colombia.

As of October 21, 1999, the Colombian Special Designated Narcotics Trafficking list totals 496 traffickers, comprised of 5 principals, 195 entities, and 296 individuals, with whom financial and business dealings are prohibited and whose assets are blocked under Executive Order 12978.

Of the 195 business entities designated, nearly 50 of these with an estimated aggregate income of some $210 million had been liquidated or were in the process of liquidation. These specific results augment the less quantifiable but significant impact of denying the designated individuals of entities of the Colombian drug cartels access to the United States financial and commercial facilities.

Madam Speaker, I include for the RECORD the text of Executive Order 12978 of October 21, 1995, as well as a June 1998 Treasury document entitled ''Impact of the Specially Designated Narcotics Traffickers Program'' as follows:

[From the Federal Register, October 24, 1995]

EXECUTIVE ORDER 12978 OF OCTOBER 21, 1995: BLOCKING ASSETS AND PROHIBITING TRANSACTIONS WITH SIGNIFICANT NARCOTICS TRAFFICKERS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergency Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3, United States Code.

I, WILLIAM J. CLINTON, President of the United States of America, find that the actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat.

Section 1. Except to the extent provided in section 203(b) of IEEPA (50 U.S.C. 1702(b)) and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, I hereby order blocked all property and interests in property that are or hereafter come within the United States, or that are or hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, of:

(a) the foreign persons listed in the Annex to this order:

(b) foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State:

(i) to play a significant role in international narcotics trafficking centered in Colombia; or

(ii) materially to assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to this order; and

(c) persons determined by the Secretary of the Treasury in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to this order.

Sec. 2 Further, except to the extent provided in section 203(b) of IEEPA and in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date. I hereby prohibit the following:

(a) any transaction or dealing by United States persons or within the United States in property or interests in property of the persons designated in or pursuant to this order:

(b) any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this order.

Sec. 3. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, corporation, or other organization, group or subgroup;

(c) the term ''United States person'' means any United States citizen or national, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States:

(d) the term ''foreign person'' means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States) or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state; and

(e) the term ''narcotics trafficking'' means any activity undertaken illicitly to cultivate, produce, manufacture, distribute, sell, finance or transport, or otherwise assists, abet, conspire, or collude with others in illicit activities relating to, narcotic drugs, including, but not limited to, cocaine.

Sec. 4. The Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out this order.

Sec. 5. Nothing contained in this order shall create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

Sec. 6. (a) This order is effective at 12:01 a.m. Eastern Daylight Time on October 22, 1995.

(b) This order shall be transmitted to the Congress and published in the Federal Register.

WILLIAM J. CLINTON,

THE WHITE HOUSE, *October 21, 1995.*

IMPACT OF THE SPECIALLY DESIGNATED NARCOTICS TRAFFICKERS PROGRAM

U.S. Department of the Treasury, Office of Foreign Assets Control, International Programs Division, June 1998

THE SPECIALLY DESIGNATED NARCOTICS TRAFFICKERS PROGRAM

Executive Order 12978, signed by President Clinton on October 21, 1995 under authority of the International Emergency Economic Powers Act (''IEEPA''), found that the activities of significant foreign narcotics traffickers centered in Colombia and the unparalleled violence, corruption, and harm that they cause constitute an unusual and extraordinary threat to the United States' national security, foreign policy and economy. Treasury's Office of Foreign Assets Control (''OFAC'') enforces the narcotics trafficking sanctions under Executive Order 12978. The principal tool for implementing the sanctions is OFAC's list of Specially Designated Narcotics Traffickers (''SDNTs''). That list, known as ''la Lista Clinton'' (the Clinton list) in Colombia, is developed by OFAC in close consultation with the Justice and State Departments.

Companies and individuals are identified as SDNTs and placed on the SDNT list if they are determined, (a) to play a significant role in international narcotics trafficking centered in Colombia, (b) to materially assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the executive order, or (c) to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to Executive Order 12978. The objectives of the SDNT program are to identify, expose, isolate and incapacitate the businesses and agents of the Colombian cartels and to deny them access to the U.S. financial system and to the benefits of trade and transactions involving United States businesses and individuals.

U.S. individuals and companies are prohibited from engaging in unlicensed transactions, including any commercial or financial dealings, with any of the SDNTs. After designation as an SDNT, all SDNT assets subject to U.S. jurisdiction are blocked. This includes bank accounts, other property, and interests in property. Violations carry criminal penalties of up to $500,000 per violation for corporations and $250,000 for individuals, as well as imprisonment of up to 10 years. Civil penalties of up to $11,000 per violation may be imposed administratively.

SUMMARY

OFAC has listed 451 companies and individuals as SDNTs against which the prohibitions and blocking authorities of Executive Order 12978 apply. Since the inception of the SDNT program in October 1995, OFAC has issued seven lists identifying SDNTs. On May 26, 1998, the SDNT list was expanded to

reach beyond the Cali cartel and now includes the names of one of the leaders of Colombia's North Coast cartel, Julio Cesar Nasser David, and 18 associated businesses and individuals that Treasury has determined are acting as fronts for the North Coast cartel. Work is underway on naming more SDNTs.

The SDNT list is currently comprised of the four Cali cartel kingpins named by President Clinton as significant narcotics traffickers, the newly-designated significant North Coast trafficker, Julio Cesar Nasser David, 154 companies, and 292 additional individuals involved in the ownership or management of the Colombian drug cartels' ''legitimate'' business empire. the SDNT businesses include a drugstore chain, a supermarket chain, pharmaceutical laboratories, a clinic, hotel and restaurant service companies, radio stations, a communications company, poultry farms and distributors, construction firms, real estate firms, investment and financial companies, cattle ranches, and other agricultural businesses. As a result of the SDNT program:

SDNTs have been forced out of business or are suffering financially. Over 40 SDNT companies, with estimated combined annual sales of over $200 million, were liquidated or in the process of liquidation by February 1998.

DNTs are denied access to banking services in the U.S. and Colombia, including bank accounts, loans, and credit cards; and existing SDNT accounts have been terminated. OFAC has identified nearly 400 closed Colombian accounts affecting over 200 SDNTs.

SDNTs have been isolated and denied access to the benefits of trade and transactions involving U.S. businesses, and existing SDNT business relationships with U.S. firms have been terminated. U.S. businessmen in Colombia have termed the SDNT program as ''a good preventive measure'' that helps them steer clear of the cartels' fronts and agents.

Individuals designated as SDNTs have suffered a ''civil death.'' Many individuals named as SDNTs have lost their jobs and have been blocked from entering the U.S. after their U.S. visas were revoked. In addition, being an SDNT in Colombia carries the overwhelming social stigma of being associated with the drug cartels. Many Colombian businessmen have re-evaluated their relationships with cartel fronts and agents as a result of the sanctions.

SDNTs Forced Out of Business

SDNTs have been forced out of business or are suffering financially since the implementation of the SDNT program in October 1995. Over 40 SDNT companies, with estimated combined annual sales of over U.S. $200 million, were liquidated or in the process of liquidation by February 1998. Some SDNT companies have attempted to continue operating through changes in their company names and/or corporate structures. To date, OFAC has placed a total of 18 of these successor companies on the SDNT list under their new company names.

Copservir, the successor company to *Drogas La Rebaja*, continues to suffer, even though its employees ostensibly purchased the drugstore chain from Gilberto and Miguel Rodriguez Orejuela and reorganized it under the new name. *Copservir* has stated that it is forced to operate on a cash basis and suffers financially because of the sanctions.

The SDNT poultry businesses owned by Helmer Herrera Buitrago, among the largest poultry firms in Colombia, have been forced to change names and reorganize in order to continue operating. For example, one Herrera SDNT poultry business, *Valle de Oro S.A.*, with sales exceeding U.S. $8.5 million in 1995, has changed its name to *Procesadora de Pollos Superior S.A.* and currently operates at a loss and is deficient in working capital.

Six pharmaceutical laboratories owned by Miguel and Gilberto Rodriguez Orejuela and designated as SDNTs have liquidated or are in the process of liquidation. Three of the six pharmaceutical laboratories reorganized under new company names and corporate structures. OFAC listed these three companies, *Farmacoop, Pentacoop,* and *Cosmepop,* as SDNTs in April 1997. These three companies, however, all have a reduced net worth and incomes and are deficient in working capital.

An ''Iron Curtain'' between SDNTs and Financial Institutions

SDNTs are denied access to banking services in both the U.S. and Colombia, including bank accounts, loans, and credit cards; and existing SDNT accounts have been terminated. These effects are in addition to the as yet unquantified, but very real, costs to the SDNT companies and individuals of being denied access to the U.S. financial and commercial systems. As one prominent financial institution told OFAC, the SDNT list has created an ''iron curtain'' between SDNTs and banks.

OFAC has identified nearly 400 closed accounts affecting over 200 SDNTs. Anecdotal evidence points to hundreds more closed accounts affecting SDNTs. This suggests that, in the financial community as a whole, the vast majority of SDNTs have lost access to banking services in Colombia as well as in the U.S.

The Rodriguez Orejuela businesses of the Cali cartel have been particularly damaged by the banks' actions. *Copservir*, the successor company to SDNT *Drogas La Rebaja*, is now operating largely on a cash basis because most banks refuse to provide it services. Blocking actions by U.S. banks were the primary reason for the liquidation of *Laboratorios Kressfor. Laboratorios Genericos Veterinarios de Colombia's* bank accounts were closed because of the sanctions, and the company is now in liquidation.

Most Colombian banks have incorporated the SDNT list into their internal compliance programs.

SDNTs are Isolated Commercially

SDNT have been isolated and denied access to the benefits of trade and transactions involving U.S. businesses, and existing SDNT business relationships with U.S. firms have been terminated since the sanctions went into effect in October 1995. U.S. businessmen in Colombia have termed the SDNT program as ''a good preventive measure'' that helps them steer clear of the cartels' fronts and agents. *Copservir* has stated that, ''As a result of the economic sanctions . . . no United States entity would conduct any business with the [*Drogas La Rebaja*] chain stores.'' Specific examples of the impact of the sanctions program on SDNT business relationships include:

Alert letters sent by OFAC to major U.S. companies, both to the parents in the U.S. and to their subsidiaries in Colombia, resulted in the cooperation of U.S. subsidiaries in terminating business relationships with SDNTs. One company sought OFAC's assistance in identifying companies trying to hide their connections to SDNTs, U.S. firms, including subsidiaries, have complied with the requirements of the SDNT program.

Alert letters sent by OFAC to nearly 5000 Colombian firms, suppliers of SDNTs prior to the implementation of sanctions in October 1995, resulted in pledges of cooperation and promises of compliance from many of the recipients. One Colombian chemical company, with several U.S. chemical manufacturing licenses, directed its subsidiaries to terminate all dealings with SDNTs.

A U.S. pharmaceutical company declined a purchase request from a suspect Colombian firm, based on information published in the SDNT list. A major European pharmaceutical company publicly announced that it would review its business relationship with an SDNT, after the press reported that it was selling drugs to an SDNT.

SDNT Individuals Suffer a ''Civil Death''

Individuals designated as SDNTs have suffered a ''civil death.'' Before an individual is permitted to open a new account, banks check ''the Clinton list.'' Many individuals named as SDNTs have lost their jobs. Many Colombian businessmen have re-evaluated their relationships with cartel fronts and agents as a result of the sanctions.

SDNTs have been blocked from entering the U.S. after losing their U.S. visas. Under State Department procedures, U.S. visas of newly-designated individuals will be revoked and any application for a U.S. visa for an SDNT individual may be denied.

Being an SDNT in Colombia carries the overwhelming social stigma of being associated with the drug cartels. William Rodriguez, the son of imprisoned Cali cartel leader Miguel Rodriguez Orejuela, has publicly stated that ''being a Rodriguez these days (i.e., being on the SDNT list) is worse than having AIDS.''

The *Drogas La Rebaja* drugstore chain, listed as an SDNT business since the inception of the SDNT program in October 1995, has been the lynchpin of the ''legitimate'' business activity of imprisoned Cali cartel leaders Gilberto and Miguel Rodriguez Orejeula. The *Drogas La Rebaja* drugstore chain, with annual profits for 1995 of over U.S. $16.3 million, saw its profits plummet in 1996. By early July 1996, William Rodriquez, the son of Cali cartel leader Miguel Rodriguez Orejuela, told a Colombian news magazine that cartel-linked companies cannot get service at local banks and said ''businesses like *Drogas La Rebaja* . . . may have shut down.''

In an effort to evade the sanctions and distance itself from its cartel owners, *Drogas La Rebaja* was ostensibly sold to its 4,000 employees for approximately U.S. $32 million on July 31 1996. *Copservir*, the new name of the employee-owned drugstore chain, continued to use *Drogas La Rebaja* as a trade name and attempted to open local bank accounts and establish business ties with U.S. firms after the purchase. In April 1997, OFAC listed *Copservir* as an SDNT. As a result of the sanctions, *Copservir* is forced to operate on a cash basis and suffers financially.

DROGAS LA REBAJA'S EARNINGS

[In millions of US dollars]

	Sales		Profits	
	1995	1996	1995	1996
Drogas La Rebaja (Eight regions) ..	139.1	111.3	16.3	4.9*

* 1996 data for Cali region is unavailable.
Source: Public records.

Madam Speaker, the administration has indicated that this list will continue to be expanded to include additional drug trafficking organizations centered in Colombia and their fronts.

Madam Speaker, I include for the RECORD the October 19, 1999, message from the President transmitting notification that the national emergency regarding significant narcotics traffickers centered in Colombia is to continue for an additional year, as well as the October 20, 1999, message from the President transmitting a 6-month periodic report on significant narcotics traffickers centered in Colombia, as follows:

NATIONAL EMERGENCY REGARDING SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING NOTIFICATION THAT THE EMERGENCY DECLARED WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA IS TO CONTINUE IN EFFECT FOR ONE YEAR BEYOND OCTOBER 21, 1999, PURSUANT TO 50 U.S.C. 1622(D):

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the Federal Register for publication, stating that the emergency declared with respect to significant narcotics traffickers centered in Colombia is to continue in effect for 1 year beyond October 21, 1999.

The circumstances that led to the declaration on October 21, 1995, of a national emergency have not been resolved. The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad. For these reasons, I have determined that it is necessary to maintain in force the broad authorities necessary to maintain economic pressure on significant narcotics traffickers centered in Colombia by blocking their property subject to the jurisdiction of the United States and by depriving them of access to the United States market and financial system.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 19, 1999.*

NOTICE

CONTINUATION OF EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA

On October 21, 1995, by Executive Order 12978, I declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad. The order blocks all property and interests in property of foreign persons listed in an Annex to the order, as well as foreign persons determined to play a significant role in international narcotics trafficking centered in Colombia, to materially assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the order, or to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the order. The order also prohibits any transaction or dealing by United States persons or within the United States in such property or interests in property. Because the activities of significant narcotics traffickers centered in Colombia continue to threaten the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad, the national emergency declared on October 21, 1995, and the measures adopted pursuant to respond to that emergency, must continue in effect beyond October 21, 1999. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency for 1 year with respect to significant narcotics traffickers centered in Colombia.

This notice shall be published in the Federal Register and transmitted to the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 19, 1999.*

SIX MONTH PERIODIC REPORT ON SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA THAT WAS DECLARED IN EXECUTIVE ORDER NO. 12978 OF OCTOBER 21, 1995, PURSUANT TO 50 U.S.C. 1703(C)

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order 12978 of October 21, 1995.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 20, 1999.*

PRESIDENT'S PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SIGNIFICANT NARCOTICS TRAFFICKERS CENTERED IN COLOMBIA

I hereby report to the Congress on the developments since my last report concerning the national emergency with respect to significant narcotics traffickers centered in Colombia that was declared in Executive Order No. 12978 of October 21, 1995. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (''IEEPA''), 50 U.S.C. 1703(c).

1. On October 21, 1995, I signed Executive Order 12978, ''Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers'' (the ''Order'') (60 *Fed. Reg.* 54579, October 24, 1995). The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four significant foreign narcotics traffickers, two of whom are now deceased, who were principals in the so-called Cali drug cartel centered in Colombia. These four principals are listed in the annex to the Order. The Order also blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State: (a) to play a significant role in international narcotics trafficking centered in Colombia; or (b) materially to assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated in or pursuant to the Order. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively ''Specially Designated Narcotics Traffickers'' or ''SDNTs'').

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to a violate, the prohibition contained in the Order.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Department of the Treasury's Office of Foreign Assets Control (''OFAC'') acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the *Federal Register*, or upon prior actual notice.

2. On October 24, 1995, the Department of the Treasury issued a Notice containing 76 additional names of persons determined to meet the criteria set forth in Executive Order 12978 (60 *Fed. Reg.* 54582, October 24, 1995). Additional Notices expanding and updating the list of SDNTs were published on November 29, 1995 (60 *Fed. Reg.* 61288), March 8, 1996 (61 *Fed. Reg.* 9523), and January 21, 1997 (62 *Fed. Reg.* 2903).

Effective February 28, 1997, OFAC issued the Narcotics Trafficking Sanctions Regulations (''NTSR'' or the ''Regulations''), 31 C.F.R. Part 536, to further implement the President's declaration of a national emergency and imposition of sanctions against significant foreign narcotics traffickers centered in Colombia (62 *Fed. Reg.* 9959, March 5, 1997).

On April 17, 1997 (62 *Fed. Reg.* 19500, April 22, 1997), July 30, 1997 (62 *Fed. Reg.* 41850, August 4, 1997), September 9, 1997 (62 *Fed. Reg.* 48177, September 15, 1997), and June 1, 1998 (63 *Fed. Reg.* 29608, June 1, 1998), OFAC amended appendices A and B to 31 C.F.R. chapter V, revising information concerning individuals and entities who have been determined to play a significant role in international narcotics trafficking centered in Colombia or have been determined to be owned or controlled by, or to act for or on behalf of, or to be acting as fronts for the Cali cartel in Colombia.

On May 27, 1998 (63 *Fed. Reg.* 28896, May 27, 1998), OFAC amended appendices A and B to 31 C.F.R. chapter V, by expanding the list for the first time beyond the Cali cartel by adding the name of one of the leaders of Colombia's North Coast cartel, Julio Cesar Nasser David, who has been determined to play a significant role in international narcotics trafficking centered in Colombia, and 14 associated businesses and four individuals acting as fronts for the North Coast cartel. Also added were six companies and one individual that have been determined to be owned or controlled by, or to act for or on behalf of, or to be acting as fronts for the Cali cartel in Colombia. These changes to the previous SDNT list brought it to a total of 451 businesses and individuals.

On June 25, 1999, OFAC amended appendix A to 31 C.F.R. chapter V by adding the names of eight individuals and 41 business entities acting as fronts for the Cali or North Coast cartels and supplementary information concerning 44 individuals already on the list (64 Fed. Reg. 34984, June 30, 1999). The entries for four individuals previously listed as SDNTs were removed from appendix A because OFAC had determined that these individuals no longer meet the criteria for designation as SDNTs. These actions are part of the ongoing interagency implementation of Executive Order 12978 of October 21, 1995. The addition of these 41 business entities and eight individuals to appendix A (and the removal of four individuals) brings the total number of SDNTs to 496 (comprised of five principals, 195 entities, and 296 individuals) with whom financial and business dealings are prohibited and whose assets are blocked under the 1995 Executive Order. The SDNT list will continue to be expanded to include additional drug trafficking organizations centered in Colombia and their fronts.

3. OFAC has disseminated and routinely updated details of this program to the financial, securities, and international trade communities by both electronic and conventional media. In addition to bulletins to banking institutions via the Federal Reserve System and the Clearing House Interbank Payments Systems (CHIPS), individual notices were provided to all relevant state and federal regulatory agencies, automated clearing houses, and state and independent banking associations across the country. GFAC contacted all major securities industry associations and regulators. It posted electronic notices on the Internet, more than ten computer bulletin boards and two fax-on-demand services, and provided the same material to the U.S. Embassy in Bogota for distribution to U.S. companies operating in Colombia.

4. As of September 15, 1999, GFAC had issued 14 specific licenses pursuant to Executive Order No. 12978. These licenses were issued in accordance with established Treasury policy authorizing the completion of pre-sanction transactions, the receipt of payment of legal fees for representation of SDNTs in proceedings within the United States arising from the imposition of sanctions, and certain administrative transactions. In addition, a license was issued to authorize a U.S. company in Colombia to make certain payments to two SDNT-owned entities in Colombia (currently under the control of the Colombian government) for services provided to the U.S. company in connection with the U.S. company's occupation of office space and business activities in Colombia.

5. The narcotics trafficking sanctions have had a significant impact on the Colombian drug cartels. SDNTs have been forced out of business or are suffering financially. Of the 195 business entities designated as SDNTs as of September 7, 1999, nearly 50, with an estimated aggregate income of more than $210 million, had been liquidated or were in the process of liquidation. Some SDNT companies have attempted to continue to operate through changes in their company names and/or corporate structures. OFAC has placed a total of 27 of these successor companies on the SDNT list under their new company names.

As a result of OFAC designations, Colombian banks have closed nearly 400 SDNT accounts, affecting nearly 200 SDNTs. One of the largest SDNT commercial entities, a discount drugstore with an annual income exceeding $136 million, has been reduced to operating on a cash basis. Another large SDNT commercial entity, a supermarket with an annual income exceeding $32 million, entered liquidation in November 1998 despite changing its name to evade the sanctions. An SDNT professional soccer team was forced to reject and invitation to play in the United States, two of its directors resigned, and the team now suffers restrictions affecting its business negotiations, loans, and banking operations. These specific results augment the less quantifiable but significant impact of denying the designated individuals and entities of the Colombian drug cartels access to U.S. financial and commercial facilities.

Various enforcement actions carried over from prior reporting periods are continuing and new reports of violations are being aggressively pursued. Since the last report, OFAC has collected no civil monetary penalties but is continuing to process a case for violations of the Regulations.

6. The expenses incurred by the Federal Government in the six-month period from October 21, 1998 through April 20, 1999, that are directly attributable to the exercise of powers and authorities conferred by the declarations of the national emergency with respect to Significant Narcotics Traffickers, are estimated at approximately $650,000. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, and the Office of the General Counsel, the Department of Justice, and the Department of State. These data do not reflect certain costs of operations by the intelligence and law enforcement communities.

7. Executive Order 12978 provides this Administration with a tool for combating the actions of significant foreign narcotics traffickers centered in Colombia and the unparalleled violence, corruption, and harm that they cause in the United States and abroad. The Order is designed to deny these traffickers the benefit of any assets subject to the jurisdiction of the United States and to prevent United States persons from engaging in any commercial dealings with them, their front companies, and their agents. Executive Order 12978 and its associated SDNT list demonstrate the United States' commitment to end the damage that such traffickers wreak upon society in the United States and abroad. The SDNT list will continue to be expanded to include additional Colombian drug trafficking organizations and their fronts.

The magnitude and the dimension of the problem in Colombia—perhaps the most pivotal country of all in terms of the world's cocaine trade—are extremely grave. I shall continue to exercise the powers at my disposal to apply economic sanctions against significant foreign narcotics traffickers and their violent and corrupting activities as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).

Madam Speaker, H.R. 3164 is closely modeled on the precedents and procedures established under the Executive Order just mentioned. The kingpins bill codifies the interagency designation process and ensures proper and timely congressional oversight of such designations by the various committees of jurisdiction and is involved in this matter.

Our intent is to use the success of the Colombia Specially Designated Narcotics Traffickers program to apply these methods on a global basis against all the significant drug traffickers.

The bill blocks or freezes all property or assets subject to U.S. jurisdiction with which there is any interest of significant foreign narcotics traffickers.

□ 1200

It also blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of State, and the Secretary of Defense, A, to play a significant role in international narcotics trafficking; or, B, to materially assist in or provide financial or technological support for, or goods or services in support of, the narcotics trafficking activities of persons designated by the executive branch or pursuant to this legislation.

In addition, the bill blocks all property and interests in property subject to U.S. jurisdiction of foreign persons determined by the Secretary of Treasury to be owned or controlled by, or to act for or on behalf of persons designated bay the executive branch pursuant to this legislation.

The bill carries criminal penalties of up to 10 years in prison and $10 million in fines for somebody who violates this act, or for anyone who refuses or willfully neglects to comply with any presidential order under the bill. Officers or agents of corporations or other entities could get up to 30 years in prison, and there are civil fines.

The kingpins bill will ensure congressional input and oversight of this designation in the sanctions process. Starting next June 1, and every June 1 thereafter, the President will be required to submit to Congress an unclassified report that publicly identifies the foreign persons that the President determines are appropriate for sanctions under the act and publicly details the President's intent to impose sanctions on these significant foreign narcotics traffickers.

The President will further be required to submit a classified report to the congressional intelligence committees on July 1 of each year detailing the status of the sanctions, including personnel and resources directed toward the imposition of such sanctions during the preceding year, with background information with respect to newly identified significant foreign narcotics traffickers and their activities. This report, the classified one, will describe any and all actions the President intends to undertake or has undertaken against such narcotics traffickers.

The kingpins process is carefully structured to protect intelligence and law enforcement community sources and methods from exploitation by persons linked to these groups. Designations of foreign persons blocked pursuant to the legislation will be effective upon the date of determination by the director of the Treasury's Office of Foreign Assets Control, acting under the authority of the Secretary of the Treasury. Public notice of the blocking is effective upon the date of the filing with the Federal Register or upon actual notice. The Office of Foreign Assets Control has disseminated and routinely updates details of the Colombian program and certainly can do so here as well.

With respect to the Colombian program that exists now, the Office of Foreign Assets Control contacted all major securities industry associations and regulators, posted electronic notices on the Internet and computer bulletin boards, and two fax-on-demand services, and provided the same material to the U.S. Embassy in Bogota, and I would expect them to do so under this bill.

The kingpins process is intended to supplement not replace United States policy of annual certification of countries based on their performance in

combating narcotics trafficking. Its sponsors' intent is that the implementation of this bill will require additional resources in personnel from intelligence and law enforcement communities to make it a truly global process. It is my hope the administration will request additional funding for fiscal year 2001 for all of those concerned to make this process work. The success of the Colombian program has largely been the product of close U.S. cooperation with Colombian law enforcement and regulatory agencies, and we would expect the same with all of the other countries today.

I strongly urge the support of this bill and the adoption of it.

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

Mr. CROWLEY. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. RANGEL).

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

Mr. RANGEL. Mr. Speaker, I have been in the Congress for close to 3 decades. I have heard more presidents declare war against drugs, and the results really have been declaring war against young people.

If we were to take a look at the results of this war, we will find that we have about 2 million young people locked up in jail. Most all of these people come from minority communities that have been addicted to drugs, they have been arrested and, in most cases, have had mandatory sentences, where judges do not even consider the facts and circumstances surrounding the violation of the law.

These are not drug traffickers or kingpins or people that we were supposed to declare war against. And more often than not, we find that the public school systems located in the areas where we find the most arrests are systems that are not providing education to these people. Is it right? Is it legal? Of course not. Should it be dealt with? Of course it should. But the war that has not been declared is the war against those people that manipulate our republic, that manipulate the bank system, that are able to do these things because they have the funds and they do not end up in jail.

It seems to me that what this legislation says, which I am an original sponsor of, is that we are going to declare war against those people that not only violate our law but are a threat to our national security. When before have we heard that we are reaching out for the strong resources of these United States, the President, the Justice Department, which includes the FBI, and we are talking about the CIA and all of the forces that are supposed to protect the United States of America, to get to the people, like terrorists, who do not deserve the support of the United States Constitution? We are asking the President to declare war, to bring in the Department of Defense, and not to allow people to use our system in order to bring the poison into the United States where weak people and untrained people become the ultimate person that is being destroyed.

We see right now that we are building more jails than we are schools, and State legislatures all over the country are fighting for prisons to be located in their rural districts rather than support for farmers. And what we are seeing right now is that international drug traffickers who use our banks, who use our systems are a threat to our system.

Now, we can get some people who want to find out what their constitutional rights are, but I tell my colleagues this, it just seems to me that we should not just concentrate on those who violate the laws on our streets and are arrested in the streets, but those who violate our national law and the international law. The people that we find doing the 5 and the 10 and the 20 and the 30 years are not the people who are banking and financing the drug trafficking in this country. They do not grow the drugs, they do not manufacture the drugs, they do not process the drugs, they do not use our banking system. They are guilty. They are guilty of using the drugs and selling the drugs in order to maintain their habits, and they should go to jail. But that should not be the direction in which we have our national drug policy.

We should go after the worst of the lot; those who are sober, those who have clear thinking, those who have no regard at all for their fellow man, those that use the system, make the money, hire the lawyers and manipulate the United States of America. I hope what this means is when the President declares war, he is bringing all of the people that have the intelligence, that have the power to take these people, take their assets, and let them know, ''Not in our country can they do that.''

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

Mr. Speaker, the distinguished gentleman from New York (Mr. RANGEL) put his finger on several of the aspects of this bill. He is quite right, we should not be jailing drug users for 20 and 30 years. Those are silly laws. And we should go after the drug kingpins, clearly. But then he said we should declare war against people who do not deserve the protection of the United States Constitution, unquote.

Everybody deserves the protection of the United States Constitution, Mr. Speaker. Everybody who is in this country or has property in this country deserves the protection of the United States Constitution. That is the basis of constitutional liberty. Once we say that someone, no matter how heinous a criminal or vile a villain does not deserve due process of law, once we say that we can tear down the laws that we have erected for the protection of our liberties to get at the devil, then, as Sir Thomas More says, there is no protection for anybody.

That is what this bill does. This bill says that if the President or the Secretary of the Treasury declares so-and-so a drug kingpin, we will seize that person's property, without any due process of law, without any hearing, without any evidence or without any proof. And he has no recourse. No lawyer on his behalf may go into court and say the Secretary's wrong; that they have the wrong person, there is no evidence he is a drug kingpin. Perhaps the President really designated him because he did not like his political views or he did not give a large enough campaign contribution, assuming some future villainous president.

The fact is there has to be due process, no matter how vile the villain. We do not believe in lynch laws. We do not string up the rapist until after he has a fair trial. And this bill goes against this.

The gentleman from New York (Mr. RANGEL) said, ''They are guilty.'' Yes, the drug kingpins are guilty, but is the individual designated really a drug kingpin? Do we not need evidence; do we not need some due process?

Again, in the name of wars, we often destroy liberty. In the name of the drug war, we are going further and further down a road to destroy the liberty that we hold so precious. This bill is a large step in that direction.

Why does the bill say there shall be no judicial review of the designation or the determination by the President; because we do not trust the courts or because we want to cut corners, and getting a drug kingpin is more important than protecting our liberty? If we did not have that paragraph in this bill, if judicial review were allowed to people whose property is going to be seized because the President or the Secretary of State thinks they are a drug kingpin, maybe this bill would be defensible. But as it is, it is simply a bill that says let us tear up the Constitution, let us go back before the Magna Carta, the king is always right, no one can question him, the President is a king. This bill should not be passed.

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

Mr. MCCOLLUM. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. GOSS), coauthor of this bill and chairman of the Permanent Select Committee on Intelligence.

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

Mr. GOSS. Mr. Speaker, I am pleased to join my colleague, the distinguished gentleman from Florida (Mr. MCCOLLUM), in offering H.R. 3164, the Foreign Narcotics Kingpin Designation Act, for the House's consideration this morning. It is an important piece of legislation.

Since its attachment by Senators COVERDELL and FEINSTEIN to the Senate version of the intelligence authorization bill last July, the kingpins bill has been the subject of extensive negotiation among the committees of jurisdiction and the Clinton administration.

Because this provision has now been caught up with some unrelated problems in the intelligence conference and the intelligence bill, we felt it important that the extensive work that has been done to perfect this legislation not be lost in the waning days of this session and, thus, here we are.

As a result, the House today has a chance to endorse an even better bill, sending a strong signal that we intend to win the war on drugs by going after the criminals who make themselves rich at the expense of America's young people and so many other unsuspecting victims and helpless addicts around the world.

The kingpins legislation takes the successful model of the Colombia kingpin program that was established under Executive Order 12978 in 1995, and creates an annual kingpin designation process, global in scope and subject to rigorous congressional oversight. I repeat, rigorous congressional oversight. The kingpins list will be the result of a tested and continuing interagency review process that incorporates verifiable information from the law enforcement and intelligence communities on the illicit activities of significant foreign narcotics trafficking entities.

The process includes safeguards that are present to protect the innocent. An unclassified listing of kingpins, their business associates, and their related entities will be sent to the Congress on an annual basis beginning on June 1, 2000. A classified report on the specific activities and findings of the kingpins program will be provided to the intelligence committees beginning on July 1, 2000.

Our goal is simple: To identify kingpins and their supporting organizations in Latin America, the Caribbean, Southeast and Southwest Asia, Europe, the former Soviet Union, Africa, and elsewhere. Following identification, the process will then seek to disrupt and dismantle these foreign criminal cartels.

In my view, the kingpins mechanism represents a proven and a powerful capability for the President and the Congress to improve the counter-drug performance of ourselves and our allies in the war against drugs. As important, it intensifies the legal and financial pressure on significant multinational criminal organizations. And, third, it encourages greater cooperation and information sharing between the United States agencies and our foreign counterparts, who are indeed very helpful on the war on drugs.

In the case of Colombia, for example, the program has been singularly successful against the Cali cartel because of the assistance furnished by Colombian law enforcement and regulatory agents.

Mr. Speaker, I will insert for the RECORD an August 27, 1999 op-ed from the New York Times on the kingpins bill and an October 13, 1999 letter to Senator COVERDELL on the kingpins provision be included in the RECORD. These are especially instructive pieces of commentary.

In a recent Southwest Florida town meeting on what our communities can do to better fight the war on drugs, I stressed the many levels on which we need to wage battle.

□ 1315

We have to look at the demand and we have to look at supply and everything in between and what is going on in our community and what is happening halfway around the world. So we have this bill today which sends a very clear strong message to our kids that we will go to the mat for them, that we are sending a clear signal to the narcotics bad guys that we are coming after them where it hurts them most, in their pocketbook, going after their profits. I think that is sort of critical.

I wish to commend all those who have worked in this effort, starting particularly at the very top with the gentleman from Illinois (Speaker HASTERT), whose leadership and consistent commitment to this effort has been unwavering, as has been his support.

I urge all Members to take a good close look at this resolution. I cannot imagine any reason in the world to vote against it. I think there is every reason to vote for it. I urge their support after their careful consideration.

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

[From the New York Times, August 27, 1999]

VOTE ON DRUGS

(By A.M. Rosenthal)

Notice to the public:

Vote now on drugs, one of the only two ways.

1. If you support the war against drugs, vote now for pending Congressional legislation designed to wound major drug lords around the world. It cuts them off from all commerce with the U.S., now a laundry for bleaching the blood from drug-trade billions and turning them into investments in legitimate businesses.

Vote by telling your members of Congress that when the House-Senate bill authorizing intelligence funds comes up for final decision, probably next month, you want them to vote for the section called ''blocking assets of major narcotics traffickers.''

Insist they start now to tell the Administration not to try to water it down to satisfy any country for diplomatic or economic reasons—including Mexico, the biggest drug entry point for America, already complaining about ''negative consequences'' of the proposal.

Turn yourself and your civil, labor or commercial organization, or religious congregation, into lobbies for the bill—counterweight to the lobbies of drug-transfer nations and American companies beholden to them.

2. If you are against the war on drugs or just don't care about what drugs are doing to our country, then don't do a thing. That is a vote, too.

That's the way it is in Washington. Members of Congress introduce legislation, committees discuss it for months, votes are taken and then when the time comes to work out House-Senate differences, administrations on the fence and under professional lobbyists' pressure use their power to try to mold the legislation to their liking. That is exactly the time for ordinary Americans around the country to do their own lobbying.

The bill targeting drug lords extends throughout their vicious world the economic sanctions already directed at Colombian drug lords, by President Clinton's executive order. It will prohibit any U.S. commerce by specifically named drug operators, seize all their assets in the U.S., and ban trading with them by American companies.

The bill specifies that every year the U.S. Government list the major drug lords of the world, by name and nation. The lists are certain to include top drug traders from countries such as Afghanistan, Jamaica, the Dominican Republic, Thailand and Mexico.

In the Senate it was introduced by Paul Coverdell, a Georgia Republican, and Dianne Feinstein, Democrat from California, and passed with bipartisan support. In the House it also has support in both parties, including Porter Goss of Florida, a Republican and chairman of the House Intelligence Committee, and Charles Rangel, the New York Democrat. It waits the final September House-Senate Joint Intelligence Committee vote.

For awhile I heard from within the Administration the kind of mutters that preceded the Clinton certification last year that Mexico was carrying out anti-drug commitments satisfactorily, which was certainly a surprise to Mexican drug lords.

Then, yesterday, the White House told me that it favored some target sanctions.

Its objection to the bill was that the Administration would have to list all major drug lords for the President to choose targets, and that could endanger investigations. The White House said it would be better for the President to select targets without having to choose from a list.

Bit of a puzzle. The bill already gives him the right to decide which of the drug lords to target from the Administration's unpublished list. But some members of Congress think the motive is to avoid a list that might include just a little too many from a ''sensitive country.''

No one bill will end the drug war. Only the determination of Americans to use every sort of resource will do that—parental teaching, law enforcement with some compassion toward first offenders and none for career drug criminals, enough money for therapy in and out of jails, targeting drug lords—and passionate leadership.

That would preclude Presidential candidates who mince around about whether they used drugs when they were younger—unless they grow up publicly and quickly.

Dr. Mitchell S. Rosenthal, head of the Phoenix House therapeutic communities, says that the bill ''reflects the kind of values that we don't hear enough these days.'' So vote—one way or the other.

DEPARTMENT OF THE TREASURY,
Washington, DC, October 13, 1999.

Hon. PAUL COVERDELL,
U.S. Senate, Washington, DC.

DEAR SENATOR COVERDELL: You have requested the views of the Office of Foreign Assets Control regarding two specific provisions in draft legislation to impose sanctions against significant foreign narcotics traffickers contained in the intelligence Authorization Bill (that has been characterized to us as the Senate Intelligence Committee version). We discuss each of those below without addressing the larger issues of the proposed legislation that are being addressed separately by the Administration.

''KNOWING'', WILLFUL'', OR ''INTENTIONAL''

We object to the addition of any of the following words into the administrative process

for identifying significant foreign narcotics traffickers and their organizations: ''knowing'', ''willful'', or ''intentional''. It has been proposed to insert ''knowing and willful'' (alternatively ''intentional'') into section 703(a)(1)(A) [page 4, line 20], and into the definition of ''significant foreign narcotics trafficker'' in section 708(5) [page 20, lines 25–26].

The use of ''knowing'', ''willful'', or ''intentional'' would impose an unreasonable additional obstacle to the designation of foreign narcotics kingpins and their organizations. It sets a higher evidentiary threshold, making it more difficult for the Secretary to compile a sufficient record upon which to recommend significant foreign narcotics traffickers and their organizations for designation by the President. Documenting the state of mind of a foreign narcotics trafficker is likely to be difficult, if not impossible, even when there is, in fact, no doubt about that person's narcotics trafficking activities. In the case of a trafficker's organization, there is no viable means to assert that an organization has a ''state of mind'' much less to prove what constitutes that organization's ''state of mind.'' We believe that the existing standards for designation are rigorous enough to avoid arbitrary and capricious actions under the proposed law.

The findings and purpose provisions of sections 701 and 702 make clear that the proposed sanctions legislation is attempting to follow the model established by the IEEPA program against Colombian cartels. Such sanctions are not aimed at proving or prosecuting the specific narcotics trafficking cases of other crimes of the kingpins and their organizations. They are directed at denying the traffickers and their organizations (including their business enterprises and agents) access to the benefits of trade and transactions involving the United States and, specifically, U.S. businesses and individuals. To accomplish this sanctions objective, we need to identify and prohibit transactions with the kingpins and their organizations, not because they are engaged in narcotics trafficking or other crimes *per se*, but because the totality of their activities poses a threat to the national security, foreign policy and economy of the United States.

JUDICIAL REVIEW

We also object to the judicial review provision as drafted. The judicial review exception in paragraph (f)(2) of section 704 is too broadly drawn. As drafted, the provision allows the U.S. person to seek review of the blocking of any assets of its foreign partner, whether or not those assets are jointly owned. Thus, in the guise of a process for review of an assets blocking involving a U.S. party's interests, it would permit judicial review of the Treasury secretary's designation determination regarding that foreign party. This would circumvent the limitations on that review that are provided in subsection (f)(1). The Administrative Procedure Act already provides for judicial review of final agency actions; and, therefore, additional judicial review provisions are unnecessary.

I am at your disposal to discuss these or any other matters relating to the pending bill or to the Specifically Designated Narcotics Traffickers program being used against the Colombian drug cartels under E.O. 12978 and IEEPA. My telephone number is 202–622–2510.

Sincerely,

R. RICHARD NEWCOMB,
Director, Office of Foreign Assets Control.

OFFICE OF FOREIGN ASSETS CONTROL, U.S. DEPARTMENT OF THE TREASURY

EVIDENTIARY REQUIREMENTS FOR THE SDNT PROGRAM, SEPTEMBER 16, 1999

All Specially Designated Nationals (''SDN'') programs require that our designations pass an ''arbitrary and capricious'' test; and all designations are based upon a non-criminal standard of ''reasonable cause to believe'' that the party is owned or controlled by, or acts, or purports to act, for or on behalf of the sanctioned country or non-state party. Furthermore, the IEEPA–SDNT Executive order has an additional designation basis for foreign firms or individuals that ''materially . . . assist in or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities'' of the named drug kingpins or other, already designated SDNTs.

In implementing the Colombia IEEPA–SDNT program, OFAC analysts identify and research foreign targets that can be linked by evidence to individuals or entities already designated pursuant to E.O. 12978. To establish sufficient linkage, OFAC initially was dependent upon a significant body of documentary evidence developed through criminal law enforcement raids and seizures. For most of the continuing designations under E.O. 12978 (that now total 496 with the June 8 addition of 41 entities and 8 individuals to the SDNT list), OFAC has not used criminal law enforcement information and instead has depended upon OFAC's own research and information collection.

The President's involvement was required in the designation of only the original four Cali cartel kingpins named in the annex to E.O. 12978. Additional kingpins are developed by close coordination between OFAC and Justice, and the preponderance of the SDNTs are designated as the result of OFAC's research and collection efforts.

OFAC reaches designation determinations after extensive reviews of the evidence internally and with the Department of Justice. In the SDNT program, E.O. 12978 requires that the State and Justice Departments be consulted by Treasury prior to a designation; and, as noted above, Justice is deeply involved in examining the sufficiency of the evidence that occurs before any parties are added to the list.

OFAC regulations provide for post-designation review and remedies. The usual forum for considering removal of a designation (such as a change in circumstances or behavior) is one in which the named party petitions OFAC for removal. Most petitioners initiate the review process simply by writing us.

Exchanges of correspondence, additional fact-finding, and, often, meetings occur before OFAC decides whether there is a basis for removal. Most parties seeking removal have followed this approach. Although a number of persons have been removed through this means, overall only a very few parties on the SDNT and other SDN lists have ever petitioned for removal. Federal courts have held that no pre-deprivation hearing is required in blocking of assets because of the Executive Branch's plenary authority to act in the area of foreign policy and the obvious need to take immediate action upon designation to avoid dissipation of affected assets.

OFAC actions are reviewable in Federal court under the Administrative Procedure Act. There have been few such cases in the history of the SDN programs; and no court has struck down any of OFAC's designations. A U.S. District Court case (*Copservir* v. *Newcomb*) brought on behalf of SDNT companies of the Rodriguez-Orejuela cartel (Miguel and Gilberto Rodriguez-Orejuela, ''MRO–GRO'') was dismissed. It has now been appealed. An associated SDNT lawsuit involving 21 individual SDNTs connected to the MRO–GRO businesses (*Arbelaez* v. *Newcomb*), is currently pending before the same Federal court that dismissed the *Copservir* case. Under the APA, the Government must demonstrate that OFAC's action was neither arbitrary nor capricious.

Evidence to support designations is acquired through research and investigation by OFAC and other Federal agencies; and it involves a broad spectrum of sources. All of OFAC's designation programs adhere to a process of thorough evidentiary development and review and are consistent with U.S. statutes and the decisions of our courts. Designation decisions are coordinated in all programs. In the IEEPA–SDNT program against Colombian traffickers, the State and Justice Departments must be consulted prior to a designation; and OFAC works closely with them and with other interested investigative and information-collecting agencies.

OFAC'S CURRENT PRACTICES

Designations, notice and awareness. The IEEPA–SNDT program against Colombian traffickers is our working model for a procedure. Designations of foreign persons under this program, particularly the derivative designations of foreign businesses, are kept secret until they have occurred to ensure that assets within U.S. jurisdiction may be blocked and that the designation investigation about the entity and related inquiries about other persons are not compromised.

When a designation is effected, several actions occur either simultaneously or in close sequence to one another. After concurrence from Justice and State, OFAC's director makes the designation. Shortly thereafter, the following will occur:

Actual notice. OFAC provides actual notice of blocking and designation to specific financial institutions or other businesses that are believed to have accounts or other assets of the designated narcotics trafficker or to be handling or engaging in transactions involving that target.

Cyberspace notice. OFAC simultaneously initiates a set of electronic notifications, including updates to the SDNT list and public information brochures on its web site, that notify the financial community and the public at large that these parties have been designated and that the prohibitions of the program are in effect with respect to them. Specific steps include:

Electronic Fedwire alert to 5,000 on-line financial institutions.

Electronic CHIPS alert to the 250 money center banks.

Uploading of the OFAC web site SDNT list with the new names and an updated comprehensive SDNT list (a visual alert to new SDNTs is featured on the web site) and updated OFAC public information brochures.

Uploading of the new designations and the expanded SDNT list to other web sites (Treasury Electronic Library; GPO Federal Bulletin Board; Commerce's Economic Bulletin Board; Office of the Comptroller of the Currency's fax-on-demand service; Commerce's STAT–USA/FAX, a fax-on-demand service.

Updating OFAC's own fax-on-demand service.

Telephone and/or fax notifications to federal bank regulatory agencies.

Federal Register publication. Constructive legal notice is effected through publication of the new SDNTs in the Federal Register.

Publicity. Press announcement by Treasury or the White House is common in order to have the broadest effective notice and impact on the targeted foreign parties.

Counter-narcotics community. Other federal counter-narcotic elements are notified, too. Commonly, classified cables have been sent in advance to U.S. embassies in affected foreign countries to make them aware that an SDNT action is about to occur. In the Colombia SDNT context, the U.S. embassy and

OFAC (which has an officer assigned to Bogota) coordinate closely throughout the process.

Host government. To the extent feasible, the USG coordinates carefully with the host government concerning the designated parties, and it works cooperatively with appropriate host government authorities to pursue additional measures and leads against the significant foreign narcotics traffickers and the SDNTs.

U.S. businesses. When U.S. firms are believed to have on-going, previously lawful dealings with the designated foreign party, they are notified promptly by OFAC, directed to cease the now prohibited activities and to block any SDNT assets within their control, and advised of their rights and responsibilities under IEEPA and OFAC's regulations. Relationships between U.S. firms and SDNTs have usually been discovered after the fact, and there have been very few cases where post-designation transactions were discovered. In helping U.S. firms comply with the SDNT program., OFAC has followed a practice of disseminating:

Program awareness letters to U.S. businesses that are starting to do business with Colombian firms. (To date, three such letters have been sent in the SDNT program.)

Specific awareness letters to U.S. firms and their Colombian subsidiaries that are believed to have had pre-designation dealings with SDNTs. (To date, 32 such letters have been sent.)

Specific alert letters, including cease and desist instructions, to U.S. firms and their foreign subsidiaries that have been found to have post-designation dealings with SDNT companies or their successor firms. (To date, 15 such letters have been sent to U.S. firms and their foreign subsidiaries.)

In the rare case where apparently willful post-designation dealings by a U.S. firm with an SDNT were to be discovered, a referral for preliminary criminal investigation would be made to U.S. Customs.

With regard to U.S. businesses, banks and individuals, the purpose of the SDNT program is not to create criminal jeopardy for unwitting U.S. businesses; it is to inform U.S. persons of the identities of the prohibited foreign parties. OFAC works to identify and expose the SDNTs in order to prevent prohibited transactions and dealing with the SDNTs, to block their identifiable assets, and to deny the SDNTs access to the U.S. financial and commercial systems and to the benefits of trade and transactions involving U.S. businesses and individuals.

Legitimate foreign banking and business sector. OFAC also seeks voluntary compliance with the U.S. sanctions programs by the legitimate foreign banks and businesses in Colombia. OFAC's director and officers have met regularly with Colombian bankers and business groups from the beginning of the SDNT program in a successful effort to develop a cooperative working relationship and voluntary compliance with the U.S. sanctions in isolating the drug kingpins and their business enterprises and operatives. These measures, which are being expanded upon, have included:

More than 450 general alert letters to Colombian firms that had pre-sanctions supply or other business relationships with SDNT firms.

Other specific alert letters to Colombian banking authorities about SDNT accounts.

Numerous meetings with Colombian bankers and businessmen.

Ownership and control. Designations under OFAC's SDNT program and its other nine programs that employ the SDN concept are based upon a non-criminal standard of ''reasonable cause to believe'' that the party is owned or controlled by, or acts, or purports to act, for or on behalf of the sanctioned country or, as in the case of the significant narcotics traffickers centered in Colombia, the sanctioned non-state party. The IEEPA/SDNT narcotics Executive order has an additional designation basis where foreign persons ''materially . . . assist in or provide financial or technological support for or goods or services in support of, *the narcotics trafficking activities*'' of one of the named drug kingpins or another of the already-named SDNTs (emphasis supplied).

OFAC has an established practice for reaching determinations of ownership or control. It is not an inflexible formula but is, rather, a judicious assessment of the nature and quality of the *indicia* of control drawn from the totality of available information about the entity in question. Prominent, but not exhaustive, criteria used in determining SDNT control of and entity are:

Exercise of voting power: size of equity holdings; direct and indirect shareholding percentages; existence of voting trusts, supermajority voting requirements, or other mechanisms to consolidate voting power or block initiatives of other shareholders.

Exercise of managed authority: identities of the board of directors, executive committees, and other managed bodies controlling the business policies of the entity; ability to designate officers or directors.

Exercise of operating authority: identities of major officials and senior managers with day-to-day operating authority or control over the types of transactions conducted by the business.

History of operations: objective indications that the business is run for the benefit of SDNTs.

The courts have held that OFAC's interpretations are consistent with the premise of the Executive Order, which lies in the recognition that the four principal narcotics traffickers named in the annex to the E.O. have invested their vast drug fortunes in ostensibly legitimate companies.

Mr. CROWLEY. Mr. Speaker, I yield myself such time as I may consume; and I rise in support of H.R. 3164, the Foreign Narcotics Kingpin Designation Act.

Mr. Speaker, the legislation before the House today is part of our constant battle to get a grip on the flow of illegal narcotics into the United States.

This bill will give the President additional tools to combat international narcotics traffickers, to freeze their assets in the U.S., to prohibit them from conducting business in the U.S., and exclude them from entering this country.

Given the negative impact of illegal drug use on our citizens, this legislation could not come at a more appropriate time. Illegal drug use is destroying our children and ruining lives, making our streets unsafe, and contributing to the substantial growth of the U.S. prison population.

Illegal drug use in the U.S. has also generated huge profits for international drug cartels. These cartels then use that money to branch out into other areas of international crime and to destabilize foreign governments that seek to crack down on illegal drug production.

In short, the U.S. must continue to move aggressively to crack down on the international narcotics kingpins which keep the drugs flowing into the U.S.

The bill before us today will help the President wage that war. The legislation requires the Secretaries of Treasury, Defense, and State, the Attorney General, and the CIA Director to provide a list to the President of significant foreign narcotics traffickers. The President would then be required to impose sanctions against narcotics traffickers on the list and others that lend them material support, including freezing the traffickers' assets in the U.S., blocking transactions between U.S. citizens and the drug traffickers, and prohibiting the traffickers from receiving visas to come to our country.

It would also provide the President with a national security interest waiver, as well as the ability to provide information to Congress in a classified format to protect intelligence and law enforcement information.

The administration supports this legislation, in part because it is based on a similar initiative launched by President Clinton against Colombian narcotics traffickers.

In October of 1995, President Clinton issued an executive order which targeted and applied sanctions to four international narcotics traffickers and organizations that operate out of Colombia. The bill before us today will expand that initiative to other countries, as well.

I urge my colleagues to support H.R. 3164, the Foreign Narcotics Kingpin Designation Act.

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

Mr. NADLER. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I rise in opposition to the bill not because I do not support the objective of trying to cut back on drugs and illegal drug activity in this country, but because I am concerned that we are giving the President and the administration far, far too much authority and subjecting them to far, far too little review.

The notion that we in this Congress can oversee the designation of who is designated a drug kingpin effectively is just nonsense. We do not have the ability to do that. The appropriate place to do that is not in the Congress of the United States. The appropriate place to do that is in the courts of the United States.

This provision, which denies any judicial review to the determinations made by the administration under this bill, is just un-American. I mean, I have never seen the ability of the President to take and block assets of people who are living in this country and then say in a law the determinations, identifications, findings, and designations made pursuant to section 4 and subsection (b) of this section shall not be subject to judicial review.

That is what the courts are for. We are not saying that there should not be a designation. But if the designation is

wrong, the people have to have the right to the court.

Mr. MCCOLLUM. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. HUTCHINSON).

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of this legislation for a couple of reasons. We have to look very carefully as to what it does.

First of all, it directs the Secretary of the Treasury to designate foreign narco-traffickers. A very simple designation. The argument was made by the gentleman from North Carolina (Mr. WATT), well, there ought to be some review of this.

The second step is what is reviewable. And that is that those so designated would not be permitted to own or transfer property in the United States or engage in U.S. financial transactions. That, under the Administrative Procedures Act, would be appealable, would be reviewable. And so, if the administration maintained a list of narco-traffickers, which they are entitled to do, which is appropriate to do, then if they seize those assets, then that would be subject to administrative review.

The third thing that is very, very important is that it only applies to foreign individuals and entities. This is the linchpin of this legislation, is not to American citizens but it is to foreign entities and individuals. If their assets are blocked, then, once again, that would be subject to administrative review.

Why is all of this important? It is important because we are attacking the sources of income and the ability to launder money.

I have been down to Colombia. I have been to Puerto Rico. I have been through these hearings. And whether we talk to the DEA or whether we talk to the narco-traffickers, they indicate that the other side, the narco-traffickers, have greater resources and we have to hit them where it hurts and where we can make a difference.

The third thing I think that is important is that it has been proven to be successful. We are not experimenting in the dark here. The 1995 sanctions against the Cali cartel were successful. They had the effect of dismantling the business entities tied to the Cali cartel. And that is what we are trying to do, not just in Colombia but worldwide. We are looking at the foreign entities that we can determine are engaged in trafficking.

I want to express my appreciation to the gentleman from New York (Mr. RANGEL) for the comment that he made that this is exactly the direction that we go in. So I ask my colleagues to support it.

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

Mr. Speaker, the gentleman was incorrect in his statement to the bill. The bill says the determinations, identifications, findings, and designations made pursuant to, et cetera, shall not be subject to judicial review. Designating an individual as a significant foreign trafficker is not, under this bill, subject to judicial review.

So the President or the bureaucrat has the absolute authority to say he is a foreign narcotics trafficker. If he thinks he is not, his lawyers in the United States cannot appeal it in court and no evidence is necessary. And that is simply, as was said before, un-American.

Mr. CROWLEY. Mr. Speaker, may I inquire as to how much time we have remaining?

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from New York (Mr. CROWLEY) has 3 minutes remaining. The gentleman from New York (Mr. NADLER) has 2½ minutes remaining. The gentleman from Florida (Mr. MCCOLLUM) has 1½ minutes remaining.

Mr. CROWLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I did not mean to infer that he wanted to bend the Constitution so badly that we would suffer from it now and in the future. But in the period of time that we are living today, where terrorism is actually a threat to our everyday life, I cannot imagine that we would apply to a court in order to find out how we can keep some of these bums out of our country or to keep them from destroying our property and our lives.

I take this war on drugs pretty seriously. We have lost lives not only to drug addiction but to our prison system. There is no question in my mind that most Americans believe if we wanted to stop this that we can but that big dollars prevent us from doing it. We go all over the world telling other countries that they really are not going after their drug traffickers, they will not extradite, they will not put them in jail, they will not do anything.

Now is the time for us to do something. Now is the time to bring the best minds that we have in the United States, those who have the constitutional mandate to protect the American citizens.

Obviously, the President has overlooked this legislation, the Judiciary has overlooked the legislation, and they feel that we stand on sound constitutional ground. But the whole idea that we cannot protect ourselves against those people who use our system, who infringe upon our rights to bring this poison into the United States, who threaten our national security, who have 2 million people locked up, at least over half of them for drug-related crimes, it seems to me that we are yielding to legal questions rather than questions that in times of war we find answers to.

So I think this is a giant step forward. And if there are problems with it, I hope they come back to this House and to the Congress so that we can deal with it. But I think the mere fact that we are going to pass this law sends a message to the foreign drug traffickers.

Mr. NADLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, Amendment 5 of the Bill of Rights says that ''no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury except,'' and then it goes on to say, ''nor to be deprived of life, liberty, or property without due process of law.''

Now, the designation by the President is not due process of law. Usually we have a trial. There is no judicial review in this situation. And even the designation as a foreigner, if they happen to be a citizen and are designated as a foreigner, they have no judicial review and no rights under this bill.

We ought to go back to the normal process of due process. If we are going to go after criminals, we ought to go after criminals with the normal process of having a trial.

Mr. CROWLEY. Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER pro tempore. Each of the gentlemen from New York have 1 minute remaining.

Mr. CROWLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. NADLER).

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

The SPEAKER pro tempore. The gentleman from New York (Mr. NADLER) is recognized for 2 minutes.

Mr. NADLER. Mr. Speaker, we seem to have a fact in this country that, if we declare something a war, some people think we can suspend the Constitution in order to fight that war.

We did that, to our regret, with communism in the 1950s. We may have done that with terrorism. And now we are being asked to do that with the war on drugs.

□ 1230

Yes, we must protect ourselves, in the 1950s and 1960s and 1970s against potential Communist aggression, against terrorism, against the drug lords. But we must not destroy our liberty or our Constitution in doing so. We have done this in the past and we have regretted it.

There is nothing that says we cannot crack down on these drug kingpins and allow them their day in court, that lets us seize the property but allow them to protest in court and have our traditional notions of due process. But this bill will not do that. This bill makes the President or the Secretary a dictator, a king. This bill says he can seize someone's property and you have no recourse. It goes against the fifth amendment and the 14th amendment, you cannot deprive a person of life, liberty or property without due process of law.

This would make an American citizen who has any kind of dealing with someone that some bureaucrat thinks is a drug kingpin a criminal if that citizen has some dealing with him even if that citizen thinks that this person is perfectly innocent, and there is no opportunity in court to dispute whether that person is innocent or in fact a drug kingpin. That is not the American way.

Yes, we should crack down on drugs; yes, we should protect ourselves, but we should not do so by eliminating all our Anglo-Saxon traditions of due process and fair play. Someone accused of a crime always is entitled to a day in court. Someone the President says is a drug kingpin is entitled to say in court, ''No, I'm not, you've got the wrong man.'' This bill goes against that.

As I said, the people who passed Magna Carta would understand why this bill is pernicious and destructive of our Constitution and on our system of values in this country and why this bill should be rejected.

Let me say one other thing. We never saw this bill in the Committee on the Judiciary. It has not been considered by the Committee on the Judiciary. I spoke to the Deputy Attorney General at 9 o'clock last night. He had never heard of it.

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

First of all, I want to make a point about this bill, and that is that it deals with foreign drug kingpins who are killing and poisoning our kids. The bottom line is it deals with the worst of the worst. It deals with people who have already been indicted in our court system but probably have never come here and never will come here for trial. It deals with freezing their assets, choking their ability to get the rewards of money and property out of the drug dealings they have been doing. And, yes, it does provide a support level for an already existing and already court-tested process whereby under national security guidelines, the President of the United States may designate these foreign drug kingpins as people whose property will be frozen and who cannot have financial dealings and business transactions in the United States.

It is perfectly constitutional, it is perfectly appropriate and the Administrative Procedures Act once they are designated does govern the process itself in the seizure of property and the disposition of it. Fifteen thousand of our fellow citizens died last year from illegal drug overdoses. Hundreds of thousands of American families had to cope with the challenges posed by addictions to their loved ones. It seems to me that it is long overdue that we have a bill like this. Sadly, we have discovered in this Congress that we are not insulated from the efforts of the kingpins to buy influence and corrupt our political institutions. Their narco-lobbyists were paid well to try to shape and gut this bill through this process. Well, they have not succeeded, fortunately.

An overwhelming vote of this House in favor of this bill, H.R. 3164, will send the kingpins an unmistakable message: We do not fear their power, we cannot be bought, and we will not rest until they are jailed and their organizations disrupted.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from Florida (Mr. MCCOLLUM) that the House suspend the rules and pass the bill, H.R. 3164.

The question was taken.

Mr. MCCOLLUM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

TERRE HAUTE FEDERAL BUILDING TRANSFER ACT

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2513) to direct the Administrator of General Services to acquire a building located in Terre Haute, Indiana, and for other purposes.

The Clerk read as follows:

H.R. 2513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF BUILDING.

(a) ACQUISITION.—The Administrator of General Services shall acquire by transfer from the United States Postal Service the real property and improvements located at 30 North Seventh Street in Terre Haute, Indiana.

(b) REIMBURSEMENT.—The transfer under subsection (a) shall be made without reimbursement, except that the Administrator shall provide to the Postal Service an option to occupy 8,000 square feet of renovated space in the building acquired under subsection (a) at no cost for a 20-year term.

SEC. 2. RENOVATION OF BUILDING.

(a) IN GENERAL.—The Administrator of General Services shall renovate the building acquired under section 1, and acquire parking spaces, to accommodate use of the building by the Administrator and the United States Postal Service.

(b) AUTHORIZATION OF APPROPRIATIONS.—Subject to the requirements of section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)), there is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1999. Such sums shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HORN) and the gentleman from Texas (Mr. TURNER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

GENERAL LEAVE

Mr. HORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 2513, a bill introduced by the gentleman from Indiana (Mr. PEASE), would require a no-cost transfer of a Postal Service building located in downtown Terre Haute, Indiana, to the General Services Administration. In return for the building, the Postal Service would be granted an option to remain in a portion of the building, 8,000 square feet, rent-free for 20 years.

The bill authorizes an appropriation of $5 million to renovate the building and to acquire parking spaces to accommodate use of the building by the Postal Service and the General Services Administration.

The subcommittee on Government Management, Information, and Technology marked up this bill and reported it to the full Committee on Government Reform on September 22, 1999. At the request of the ranking member of the full committee the gentleman from California (Mr. WAXMAN) and the subcommittee's ranking member the gentleman from Texas (Mr. TURNER), the subcommittee held a hearing on September 30, 1999 to further consider the legislation.

Witnesses at the hearing included the sponsor of the bill the gentleman from Indiana (Mr. PEASE); Terre Haute's mayor, Jim Jenkins; and representatives from both the Postal Service and the General Services Administration. Witnesses at the hearing testified about the building's historical significance and the need to maintain a post office and a Federal presence in the downtown area of this Indiana community. A representative of the General Services Administration testified the agency needed additional time to explore other alternatives to conveying this property, including the possibility of a no-cost conveyance to a public entity or a sale to a private buyer. An agreement was reached at the hearing to postpone further consideration of this bill for an additional 30 days to enable the General Services Administration to find a viable alternative to H.R. 2513. The 30 days have elapsed and the General Services Administration has been unable to achieve a viable option for conveying this property.

Mr. Speaker, I urge the adoption of the bill.

Attached is the ''Statement of Administration Policy,'' dated November 2, 1999.

Also included are the letters between the chairmen of Government Reform and Transportation and Infrastructure.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, November 2, 1999.

STATEMENT OF ADMINISTRATION POLICY

H.R. 2513—TO DIRECT THE ADMINISTRATOR OF GENERAL SERVICES TO ACQUIRE A BUILDING LOCATED IN TERRE HAUTE, INDIANA, AND FOR OTHER PURPOSES. (PEASE (R) IN)

The Administration opposes House passage of H.R. 2513. The bill would:

Compel the General Services Administration (GSA) to accept into its inventory, and fully renovate, a building that has not been reasonably marketed for use by other entities. Further, GSA does not have the Federal tenancy in the Terre Haute community to sustain this building.

Lead to certain losses in GSA's budget, since the appropriations authorized are not guaranteed and would only cover renovation costs, while GSA would certainly suffer continuing shortfalls in rental income from the building. These losses are particularly likely in light of the bill's requirement that the United States Postal Service, in lieu of payment for the building, receive an option to occupy 8,000 square feet of renovated space rent-free for 20 years.

The Administration appreciates and shares the desire to preserve historical and architectural landmarks such as that currently housing the Terre Haute Post Office, but believes this preservation can and should be done in a financially prudent fashion. GSA believes the Post Office should remain in the Postal Service's inventory while all interested parties, including GSA, continue to survey the market for potential users.

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, October 26, 1999.

Hon. DAN BURTON,
Chairman, Committee on Government Reform, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest in the Transportation and Infrastructure Committee in H.R. 2513, a bill to direct the Administrator of General Services to acquire a building in Terre Haute, Indiana.

Our Committee recognizes the importance of H.R. 2513 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee.

With warm personal regards, I remain

Sincerely,

BUD SHUSTER,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, November 1, 1999.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of October 26, 1999 regarding H.R. 2513 a bill directing the Administration of General Services to acquire a building located in Terre Haute, Indiana.

I agree that the Committee on Transportation and Infrastructure has valid jurisdictional claims to certain provisions in this legislation, and I am most appreciative of your decision not to request such a referral in the interest of expediting consideration of the bill. I agree that by foregoing a sequential referral, the Committee on Transportation and Infrastructure is not waiving its jurisdiction. Further, as you requested, this exchange of letters will be included in the record during floor consideration of this bill.

Thank you for your cooperation in this matter.

Sincerely,

DAN BURTON,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, October 29, 1999.

Hon. J. DENNIS HASTERT,
Speaker, Washington, DC.

DEAR MR. SPEAKER: In the interest of expediting floor consideration of H.R. 2513, a bill to direct the Administrator of the General Services to acquire a building located in Terre Haute, Indiana, and for other purposes, the Committee on Government Reform does not intend to exercise its jurisdiction over this bill.

Originally, the bill was scheduled to be marked up by the committee on September 30th. Congressman Horn and Congresswoman Waxman, however, agreed to give GSA another thirty days before passing H.R. 2513. After thirty days, both resolved that the bill could be considered on the House floor.

As you know, House Rule X, Establishment and Jurisdiction of Standing Committees, grants the Government Reform Committee with jurisdiction over ''government management and accounting measures, generally.'' Our decision not to exercise the Committee's jurisdiction over this measure is not intended or designed to waive or limit our jurisdiction over any future consideration of related matters.

Thank you for your assistance, and I look forward to working with you throughout the 106th Congress.

Sincerely,

DAN BURTON,
Chairman.

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

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

Mr. Speaker, this bill attempts to deal with a problem in Terre Haute, Indiana, represented by the gentleman from Indiana (Mr. PEASE). This problem he faces is not unlike a problem that many of us have or will experience in our own districts. Many of us have Federal buildings within our districts that oftentimes were built during the Depression era, buildings that are no longer up to current standards and are having difficulty being leased. These buildings, I think, are many times located in prime areas of our communities, in downtown locations, in commercial areas and many times these buildings have historical significance that warrant preservation.

H.R. 2513 by the gentleman from Indiana deals with such a building located in his hometown of Terre Haute and it is a building that is currently owned by and partially occupied by the Postal Service. I have committed to helping the gentleman from Indiana with this bill not only because of my personal respect and admiration which I hold for him but also because I know that any one of us can and do face the same problem in our own districts. I am aware of the fact that the gentleman from Indiana has worked diligently for over 2 years to try to find a solution to this problem.

This bill would transfer the Postal Service building from the Postal Service to the General Services Administration. The General Services Administration as consideration for the transfer would be obligated to permit the Postal Service to continue to occupy approximately 8,000 square feet of the building that has about 45,000 square feet of rentable space for free for a period of 20 years. The bill would also authorize an appropriation of $5 million to the GSA to renovate the building and to acquire parking.

I fully appreciate the value of this building to the community of Terre Haute. This structure, which was constructed through a public works project during the Depression, is listed on the National Register of Historical Places. Aside from its historical significance, the building goes a long way toward enhancing the value of downtown Terre Haute by providing citizens a host of services that are easily accessible to the public. Citizens like to be able to walk across the street to visit the post office, visit the Social Security Administration. Time, however, has taken its toll on this building. It is deeply in need of repair and diminishing standards have made it difficult to keep the building operational. As I said, it is estimated by the GSA that the building would require between $4 million and $5 million in renovation. The citizens of Terre Haute under the leadership of the gentleman from Indiana have joined together to keep the Postal Service building as a viable part of the downtown area.

In my opinion, the Federal Government has a clear duty to act as a responsible property owner and should be a partner in finding a solution to the future of this building. The building's historical significance and its importance to preserving the economic viability of the downtown area must be acknowledged by the Federal Government. However, I am deeply concerned about one provision of the bill, that provision which allows the Postal Service to occupy 8,000 square feet of space for 20 years at no cost. I recognize that the purpose of the free rent provision under the bill is to compensate the Postal Service for the value of the building. Yet without the whole building generating revenue, I anticipate that the expense of providing the Postal Service with free rent will greatly reduce the fair market value of the building. The free rent provision will amount to an encumbrance which will diminish the building's economic value for the next 20 years.

As we all know, a lot can change in 20 years. All future prospective owners of the building may be discouraged from acquiring the building because of the heavy burden of free rent for the Postal Service. And the Postal Service has acknowledged that it intends to stay in

the downtown area. They even acknowledged to us in a conference call that were they not in this building, they would move to another building a few blocks away where they would be required to pay rent. Why then should the Postal Service not continue to pay rent in the Postal Service building? That is a question that I do not know that we have a clear answer to. The Postal Service simply says that if they are going to transfer a building to the General Services Administration, they are due some consideration, that it has some value. This argument certainly is a sound one, if the building does in fact have economic value. But the estimates provided by the GSA indicate that the building in its current condition has little if any economic value and will require an expenditure of over $4 million to bring it up to a standard to attract tenants at market rates. And then, of course, the payout over the years of $4.2 million perhaps would make the building less attractive not only to the government but to any private investor considering such an investment.

So having expressed my concern about the particular provision of the bill, I want to say again that I commend the gentleman from Indiana for his diligence in trying to deal with a problem common to all of us. I think that the proper thing for us to do is to support this bill, to move it forward, and in fact when we had a hearing on this bill, the gentleman from Indiana delayed moving the bill forward for 30 days to allow the GSA to come up with any viable option that they may have. Their efforts thus far have been unsuccessful, but he kept his commitment to do so and our commitment on this side of the aisle was to allow this bill to move forward and perhaps to move it to a point where some of the suggestions that I have made could be incorporated in the bill. We are supportive of the effort that the gentleman from Indiana has made. I commend him for what he is attempting to do for his community. I would urge adoption of the bill.

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

Mr. HORN. Mr. Speaker, I thank the gentleman for his very thorough proposal of this particular building. As I noted, the Congressional Budget Office said this is a negligible cost in terms of the amounts involved.

Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. PEASE).

Mr. PEASE. Mr. Speaker, in the interest of time, I will submit a written statement for the RECORD.

Having said that, Mr. Speaker, I want to thank the gentleman from California (Mr. HORN) and the gentleman from Texas (Mr. TURNER) for their tremendous support and assistance in an effort that is very important to my hometown and the citizens who reside there.

As the gentleman from Texas has said, we have spent almost 2 years trying to resolve this situation in a fashion that meets the needs of the community but is also responsible in its stewardship of limited financial resources.

□ 1245

We believe we have the best possible option before us at this time, though we understand that there are still points in the agreement that need to be negotiated, and obviously will be, between the GSA and the Postal Service and our colleagues in the other body.

The staff of the subcommittee and the gentleman from Texas (Mr. TURNER) and many members of the Postal Service staff and GSA staff have been extremely helpful to us. I want to acknowledge their work in what is admittedly a difficult area and thank each of them for their cooperation in bringing this proposal forward. We believe it provides the basis for a constructive resolution of a difficult matter.

Mr. Speaker, I would urge my colleagues to support the bill.

Mr. Speaker, I rise today in support of H.R. 2513. I represent the Seventh District of Indiana, which includes the city of Terre Haute where the building which is the subject of this bill is located. In September 1935, the Federal Building, which is located at the intersection of Seventh and Cherry streets in Terre Haute, IN, opened its doors to the public. Its original tenants included a Federal court, a post office, the Social Security Administration, and the Internal Revenue Service. This grand structure is a product of the Works Progress Administration during the Depression under the Roosevelt Administration and is listed on the National Register of Historic Places. It is a fine example of Art Deco architecture, utilizing Indiana limestone, marble, and ornate decor.

Pursuant to the Postal Reorganization Act of 1970, some of the buildings in the Federal inventory were conveyed to the U.S. Postal Service (USPS). The postal facility located in downtown Terre Haute, IN, is one such building that was included in the transfer. Since the transfer, numerous Federal agencies have leased space in the Terre Haute facility for their operations. However, the building is currently in need of modernization, and many of these agencies, including the Social Security Administration and the Internal Revenue Service, have relocated to other locations in the city of Terre Haute under private leases.

According to the most recent figures from GSA and the USPS, the total rentable space for the Terre Haute facility is approximately 41,300 square feet. Of this space, 30,902 square feet are currently occupied by the USPS and other Federal agencies, thus placing the current overall occupancy rate at 75 percent. Currently, the building houses several Federal offices, including a U.S. District Court, a U.S. Bankruptcy Court, the U.S. Marshals Service, the Federal Bureau of Investigation, a U.S. Attorney's office, Federal Probation, and one of my district offices. In addition to this Federal presence, space is also leased by two private attorneys and Jelene Kennedy, a blind senior citizen who operates a concession stand for the building.

In 1997, a new postal processing and distribution center was opened in Terre Haute, IN. Due to the construction of this new postal facility, the presence of the USPS in the Federal building has been reduced to box and window services only. For a time, there were indications that the USPS might terminate its presence at this facility.

H.R. 2513 would transfer the Terre Haute facility to GSA at no charge, providing the USPS with an option to remain in a portion of the building (8,000 square feet) rent-free for 20 years. In addition, the bill would authorize $5,000,000 for necessary renovations to the building and to acquire parking spaces to accommodate existing and future offices.

H.R. 2513 has many merits for both the city and the Federal Government. It would help maintain the presence of the USPS in downtown Terre Haute, which is a high priority with the community and numerous interest groups. Anticipated renovations would make the facility more attractive to public and private lessees, including Federal agencies seeking to relocate when their leases in other Terre Haute locations expire in the next few years. At this time, the Social Security Administration, the Internal Revenue Service, the Department of Agriculture, and armed forces recruiting offices operate outside the facility, but within the city of Terre Haute. Ideally, these Federal agencies would move into the building, thus occupying, at a minimum, 16,095 additional square feet, increasing the occupancy rate to 90 percent. Under this plan, the moneys currently being paid under private leases would be paid to the Federal Government, thereby saving taxpayers money. In addition, a central location for Federal agencies and their services would provide improved accessibility for the Terre Haute community.

Two additional aspects that should be considered when examining H.R. 2513 are the demand for additional space by those Federal agencies currently in the Terre Haute facility, as well as the demand for space in the facility by state and private entities. The FBI and the U.S. District Court, both of which currently occupy space in the building, have indicated that additional space is necessary for their operations. In addition, a private lessee has expressed interest in leasing approximately 1,800 square feet. The Governor of Indiana has indicated his interest in this project and his willingness to work in filing vacant spaces in the building with state agencies if there is space remaining after other Federal agencies relocate to this property. Moreover, Mayor Jim Jenkins, Historic Landmarks Foundation of Indiana, STAMPS Downtown, Indiana State University, Downtown Terre Haute, Inc., Terre Haute Chamber of Commerce, the Deming Center, and others have expressed their willingness to assist in finding tenants to occupy any vacancies in the building.

One final factor that should be taken into consideration is the recent decision by the United States Bureau of Prisons to designate the Federal Penitentiary in Terre Haute as the sole location in the United States for the execution of Federal death sentences. The potential impact of this designation on the Federal court at Terre Haute is currently unknown, but is likely to be substantial.

Mr. Speaker, H.R. 2413 was introduced in the U.S. House of Representatives on July 14, 1999. The bill was subsequently referred to the Committee on Government Reform and the Committee on Transportation and Infrastructure for consideration. On September 22, 1999, the Subcommittee on Government Management, Information and Technology of the

Committee on Government Reform marked up H.R. 2513 by a voice vote. On September 29, 1999, a hearing on H.R. 2513 was conducted by the subcommittee, and testimony was presented by representatives of the Terre Haute community, myself, and representatives of the USPS and GSA. At the hearing, concerns about H.R. 2513 were raised by GSA officials and Representative HENRY WAXMAN, ranking member of the Committee on Government Reform.

H.R. 2513 was scheduled to be marked up by the Committee on Government Reform on September 30, 1999. However, at my request, H.R. 2513 was withdrawn form the Committee's agenda for that day. Ranking Member WAXMAN and I agreed to allow GSA 30 days to review whether there were realistic alternatives for management of the Terre Haute facility, other than ownership by GSA. Under this agreement, if GSA failed to move forward and provide a viable option in the 30-day period, then the ranking member agreed to moving the bill forward in its current form on the House suspension calendar. To date, GSA has been unable to provide a viable option, though it has worked diligently on the project and has been in regular communication with my staff, committee staff, and representatives of various government entities in Terre Haute.

For more than 2 years, my staff and I have been working with GSA, the USPS, and the Terre Haute community to resolve this matter. Though we have made progress, a comprehensive solution has not yet been reached, but this bill helps us advance the negotiations toward the only viable option yet discovered. To expedite this matter, Representative DAN BURTON, chairman of the Committee on Government Reform, with the concurrence of Ranking Member HENRY WAXMAN, agreed to waive the committee's consideration of H.R. 2513. In addition, Representative BUD SHUSTER, chairman of the Committee on Transportation and Infrastructure agreed to forego his committee's sequential referral on the bill.

In conclusion, it makes sense to transfer its property from the USPS to GSA. The General Services Administration is familiar with building management and better suited to properly manage this multitenant facility—a historic structure architecturally and structurally similar to facilities managed by GSA in other cities. I believe that the figures clearly indicate a strong federal presence, as well as a strong demand, for space in the Terre Haute facility. For many reasons, the transfer of the facility to GSA is a sound transaction which will prove to be an asset to the Federal Government and to the citizens of the Terre Haute area. I urge my colleagues to support H.R. 2513.

Mr. WAXMAN. Mr. Speaker, I will support this legislation because I entered into an agreement with the gentleman from Indiana, Mr. PEASE, and the gentleman from California, Mr. HORN. Under our understanding, I agreed to support moving this legislation through the House if the General Services Administration did not find a viable alternative for the postal building in Terre Haute within 30 days. The 30 days are up, and although GSA is continuing to analyze and investigate the property, it has not yet found an entity interested in buying or taking the property.

Nevertheless, although I am supporting moving this legislation through the House, I continue to have genuine reservations about H.R. 2513. I hope Mr. PEASE will work to resolve these issues as this legislation moves forward.

H.R. 2513 provides that the postal services building in Terre Haute will be transferred to GSA. It also provides the U.S. Postal Service with an option to remain in the building rent-free for 20 years. In addition, this bill authorizes $5,000,000 for necessary renovations to the building and to acquire parking space to accommodate existing and future offices.

I am not sure that this is the best policy. It ordinarily does not make sense to force GSA to own a building it does not want or need. GSA has explained the many difficulties it will have in leasing space in the facility. The building has a 55 percent vacancy rate, and it is not clear that this rate will increase enough to cover the costs of the renovations. In addition, there now appears to be little justification for allowing the Postal Service to have office space rent-free for 20 years.

In essence, I fear that this bill could require GSA to sink millions of dollars into a property when there is little chance that the Federal Government will be able to recoup those costs.

Mr. Speaker, in addition to my concerns about the substance of this bill, I am also troubled by the inconsistent information that has circulated regarding this bill.

During a September 29, 1999, subcommittee hearing on H.R. 2513, which was held at my insistence, the parties concerned came to an agreement to postpone a decision on how to proceed with the Terre Haute Post Office building for 1 month. During that month, GSA was to review the potential options for the building, including a directed sale, and report to us no later than October 29, 1999, regarding those options. If GSA did not report in that timeframe or failed to report a viable alternative to H.R. 2513, I agreed to move H.R. 2513 to the floor under suspension of the rules.

On October 29, 1999, GSA reported to us that there was a potential purchaser, the Vigo County School District. My staff also contacted the treasurer of the Vigo County School District about their interest. The treasurer indicated that the school district was interested and that it needed more space. The treasurer also said that the school district needed another month in which to do a cost-benefit analysis. It thus appeared that there was a viable alternative for the property.

Mr. PEASE's staff disputed this point, however, and by the end of the day the school district's interest appears to have evaporated. Late in the day, my staff received a call from the superintendent of the Vigo County School District. With Mr. PEASE's chief of staff present in his office, the superintendent indicated that the school district was not a viable alternative and that its interest was just lukewarm.

In addition, I have received conflicting information regarding the Postal Service's intentions. It was my understanding initially that the provision in the bill giving the Postal Service free rent for 20 years was justified because but-for the free rent, the Postal Service had no intention of staying downtown. On October 29, however, we learned that Postal Service had always intended on keeping a presence in downtown Terre Haute, just not in the Federal building in question. As the gentleman from Texas, Mr. TURNER, has rightly pointed out, it doesn't seem necessary to give free rent to the Postal Service. This is especially true if it intended on paying rent in another building.

This point has significant ramifications. The fact that the Postal Service must receive space rent-free detracts from the building. In fact, it may be the reason that GSA has to date been apparently unable to find a viable alternative.

Mr. Speaker, I am not going to vote against this bill. However, I hope that Mr. PEASE and my colleagues in the Senate will take my comments into consideration as this bill moves through their Chamber.

Mr. TURNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HORN. Mr. Speaker, I yield back the balance of my time and urge the adoption of this measure.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and pass the bill, H.R. 2513.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PRESIDENTIAL TRANSITION ACT AMENDMENTS

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3137) to amend the Presidential Transaction Act of 1963 to provide for training of individuals a President-elect intends to nominate as department heads or appoint to key positions in the Executive Office of the President.

The Clerk read as follows:

H.R. 3137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO PRESIDENTIAL TRANSITION ACT OF 1963.

Section 3(a) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) in the matter preceding paragraph (1) by striking ''including—'' and inserting ''including the following:'';

(2) in each of paragraphs (1) through (6) by striking the semicolon at the end and inserting a period; and

(3) by adding at the end the following:

''(8)(A) Payment of expenses during the transition for briefings, workshops, or other activities to acquaint key prospective Presidential appointees with the types of problems and challenges that most typically confront new political appointees when they make the transition from campaign and other prior activities to assuming the responsibility for governance after inauguration, including interchange with individuals who held similar leadership roles in prior administrations, agency or department experts from the Office of Management and Budget or an Office of Inspector General of an agency or department, and relevant staff from the General Accounting Office.

''(B) Activities funded under this paragraph shall be conducted primarily for individuals the President-elect intends to nominate as department heads or appoint to key positions in the Executive Office of the President.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

California (Mr. HORN) and the gentleman from Texas (Mr. TURNER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

GENERAL LEAVE

Mr. HORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3137.

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

There was no objection.

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

Mr. Speaker, over the years, there have been many examples of missteps and outright mistakes, regardless of party, that have been made by newly appointed officials in the executive branch of the Government and the White House. Sometimes the errors tumble out in misstatements of ill-advised recommendations; at other times they have resulted in ethical lapses by appointees who were unaware of the requirements of Federal law in their specific Cabinet position or independent office.

Many of these mistakes are made by well-meaning individuals and might have been avoided if the appointees had received a timely orientation on the scope of their new responsibilities and the environment in which they were entering. The Presidential Transition Act Amendment of 1999, which is being considered today, would help ensure that these orientations take place early in a new administration.

The Presidential Transition Act of 1963 was designed to assist both incoming and outgoing administrations bridge the transition period from the election, to holding the office and from leaving the office. The act provides Federal funding to help incoming Presidents and Vice Presidents establish their new administrations, and it assists departing Presidents and Vice Presidents in their return to private life.

In 1976 Congress amended the Presidential Transition Act to increase transition funding. In 1988 Congress passed the Presidential Transitions Effectiveness Act, which again increased funding and included a provision allowing for annual adjustments for inflation.

H.R. 3137 would amend the Presidential Transition Act to authorize the use of these transition funds to set up a formal orientation process for incoming senior appointees of the newly elected President and Vice President. Incoming administrations may only use transition funds from the day after the elections until 30 days after the inauguration. By establishing a formal orientation process for senior appointees within that time frame, it is anticipated that a greater number of lower level appointees might also receive orientations early in the new administration.

On October 13, 1999, the Subcommittee on Government Management, Information, and Technology, which I chair, held a legislative hearing on H.R. 3137, the Presidential Transition Act Amendment of 1999. The subcommittee heard from a number of distinguished witnesses, each of whom supported this legislation. For example, the Honorable Elliott Richardson, former Attorney General to President Nixon, holder of at least five cabinet positions; and the Honorable Lee White, former Assistant Counsel to President Kennedy and counsel to President Johnson, both testified that a formal orientation process would have been beneficial to them and their executive branch colleagues.

Their position was supported by three other witnesses who have spent years observing presidential transitions. Mr. Dwight Ink, former acting director of the Office of Management and Budget; Mr. Paul Light, director of the Center for Public Service at The Brookings Institution; Mr. Norman J. Ornstein, the resident scholar at the American Enterprise Institute for Public Policy Research.

Additional written testimony was provided by General Andrew Goodpastor, when, as a young officer in the Army, he was appointed by President Eisenhower as Staff Secretary in the Executive Office of the President; the Honorable Pendleton James, former director of Presidential Personnel to President Reagan; and one of America's most distinguished gentleman; the Honorable John Gardner, who had been Secretary of Health, Education and Welfare during the Johnson administration.

Each of these former White House appointees, presidential appointees, stated that establishing a timely orientation process would ensure a smooth executive branch transition.

On October 26, 1999, the subcommittee held a business meeting to mark up H.R. 3137, the Presidential Transition Act Amendment of 1999. The subcommittee unanimously approved by voice vote H.R. 3137, as amended, and reported the bill to the full Committee on Government Reform.

On October 28, 1999, the full committee held a business meeting to mark up H.R. 3137. The committee unanimously approved H.R. 3137 by voice vote and reported the bill to the full House of Representatives.

This bill is an important step toward providing well-informed advisers for a President and Vice President-elect. I urge my colleagues to support this bipartisan measure, which will permit these appointees to be briefed by members of the Executive Office of the President, by inspectors general, by long-serving experts in the General Accounting Office, and by members of the outgoing administration and other administrations. I urge my colleagues to support this bipartisan measure.

The letter from Dr. John W. Gardner is attached.

STANFORD UNIVERSITY,
SCHOOL OF EDUCATION,
Stanford, CA, October 18, 1999.

HON. STEVEN HORN,
Chairman, Subcommittee on Government Management, Information and Technology, Washington, DC.

DEAR STEVE: I'm extremely sorry that I could not accept your invitation to testify on the Presidential Transition bill. I am very heavily burdened at this time.

But I want you to know that I strongly support the legislation. I have closely observed nine presidential transitions, and five of them involved a really major influx of new people.

I supported the Presidential Transition Act of 1963, but it clearly needs the improvement that the new legislation would provide.

Sorry I couldn't be with you in person.

Sincerely,

JOHN W. GARDNER.

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

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

Mr. Speaker, I rise in strong support of H.R. 3137 and urge its passage today. I want to commend the gentleman from California (Chairman HORN) and the ranking member, the gentleman from California (Mr. WAXMAN), for their efforts and their focus on this particular issue.

The time between election day of a new President and the inauguration of that President is a very short period of time, and the transition from campaigning for the office and preparing then to govern in office is oftentimes a difficult one, and it certainly is a short one.

This bill is designed to strengthen the Presidential Transition Act to amend that law which was originally passed in 1963 by authorizing the use of transition funds for the purpose of providing orientations for individuals that the President-elect plans to nominate to top White House positions, including Cabinet posts.

The bill would likely affect the top 20, 30, or 40 appointments by the White House; and the bill would give greater assurance that the orientation process, which would take place before or shortly after the incoming administration assumes office, actually does occur.

This orientation process provides an opportunity for a smoother transition for the new administration and would eliminate many of the mistakes that we often observe that occur because of the transition that many people who serve in an administration have to make into public life.

Crafting an explicit provision on the propriety of spending funds for an appointee orientation is important for two reasons. First, the proposed language will reassure the transition team members that such spending is legal; second, the inclusion of such language into law will encourage transition teams to explore further orientation for political appointees. I believe it is important to provide these new appointees with a sense of the new job they will be undertaking.

Other branches of our government currently undergo a similar process. I

remember as an incoming freshman Member of this House in 1997, along with other Members of that freshman class, attending an orientation program for new Members of Congress at the Kennedy School of Government at Harvard University. I personally found the program very helpful as I transitioned in to serving as a Member of this body. Even though I had been a Member of the Texas legislature for 10 years, I recognized very quickly that Congress is a different place, has a unique set of characteristics, and a range of issues that almost all new Members will be experiencing for the first time.

Members of Congress are not alone. In the judicial branch, Federal judges attend an orientation program put on by the Federal Judicial Conference. As the gentleman from California (Mr. HORN) mentioned, at our hearing on October 13, our subcommittee heard from a long list of distinguished witnesses who spoke in favor of this legislation. This bill passed out of our committee on October 28 with bipartisan support. It is noncontroversial; and I have full confidence that if we can pass this bill, it will help the new incoming administration be better prepared to govern.

I urge the House to pass this law, and I commend again the gentleman from California (Mr. HORN) and the gentleman from California (Mr. WAXMAN) for their leadership on this issue.

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

Mr. HORN. Mr. Speaker, I urge adoption of this measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and pass the bill, H.R. 3137.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FEDERAL FINANCIAL ASSISTANCE MANAGEMENT IMPROVEMENT ACT OF 1999

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 468) to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public, as amended.

The Clerk read as follows:

S. 468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Financial Assistance Management Improvement Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) there are over 600 different Federal financial assistance programs to implement domestic policy;

(2) while the assistance described in paragraph (1) has been directed at critical problems, some Federal administrative requirements may be duplicative, burdensome or conflicting, thus impeding cost-effective delivery of services at the local level;

(3) the Nation's State, local, and tribal governments and private, nonprofit organizations are dealing with increasingly complex problems which require the delivery and coordination of many kinds of services; and

(4) streamlining and simplification of Federal financial assistance administrative procedures and reporting requirements will improve the delivery of services to the public.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) improve the effectiveness and performance of Federal financial assistance programs;

(2) simplify Federal financial assistance application and reporting requirements;

(3) improve the delivery of services to the public; and

(4) facilitate greater coordination among those responsible for delivering such services.

SEC. 4. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(2) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as defined under section 551(1) of title 5, United States Code.

(3) FEDERAL FINANCIAL ASSISTANCE.—The term ''Federal financial assistance'' has the same meaning as defined in section 7501(a)(5) of title 31, United States Code, under which Federal financial assistance is provided, directly or indirectly, to a non-Federal entity.

(4) LOCAL GOVERNMENT.—The term ''local government'' means a political subdivision of a State that is a unit of general local government (as defined under section 7501(a)(11) of title 31, United States Code).

(5) NON-FEDERAL ENTITY.—The term ''non-Federal entity'' means a State, local government, or nonprofit organization.

(6) NONPROFIT ORGANIZATION.—The term ''nonprofit organization'' means any corporation, trust, association, cooperative, or other organization that—

(A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(B) is not organized primarily for profit; and

(C) uses net proceeds to maintain, improve, or expand the operations of the organization.

(7) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian Tribal Government.

(8) TRIBAL GOVERNMENT.—The term ''tribal government'' means an Indian tribe, as that term is defined in section 7501(a)(9) of title 31, United States Code.

(9) UNIFORM ADMINISTRATIVE RULE.—The term ''uniform administrative rule'' means a Government-wide uniform rule for any generally applicable requirement established to achieve national policy objectives that applies to multiple Federal financial assistance programs across Federal agencies.

SEC. 5. DUTIES OF FEDERAL AGENCIES.

(a) IN GENERAL.—Except as provided under subsection (b), not later than 18 months after the date of enactment of this Act, each Federal agency shall develop and implement a plan that—

(1) streamlines and simplifies the application, administrative, and reporting procedures for Federal financial assistance programs administered by the agency;

(2) demonstrates active participation in the interagency process under section 6(a)(2);

(3) demonstrates appropriate agency use, or plans for use, of the common application and reporting system developed under section 6(a)(1);

(4) designates a lead agency official for carrying out the responsibilities of the agency under this Act;

(5) allows applicants to electronically apply for, and report on the use of, funds from the Federal financial assistance program administered by the agency;

(6) ensures recipients of Federal financial assistance provide timely, complete, and high quality information in response to Federal reporting requirements; and

(7) in cooperation with recipients of Federal financial assistance, establishes specific annual goals and objectives to further the purposes of this Act and measure annual performance in achieving those goals and objectives, which may be done as part of the agency's annual planning responsibilities under the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285).

(b) EXTENSION.—If a Federal agency is unable to comply with subsection (a), the Director may extend for up to 12 months the period for the agency to develop and implement a plan in accordance with subsection (a).

(c) COMMENT AND CONSULTATION ON AGENCY PLANS.—

(1) COMMENT.—Each agency shall publish the plan developed under subsection (a) in the Federal Register and shall receive public comment of the plan through the Federal Register and other means (including electronic means). To the maximum extent practicable, each Federal agency shall hold public forums on the plan.

(2) CONSULTATION.—The lead official designated under subsection (a)(4) shall consult with representatives of non-Federal entities during development and implementation of the plan. Consultation with representatives of State, local, and tribal governments shall be in accordance with section 204 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1534).

(d) SUBMISSION OF PLAN.—Each Federal agency shall submit the plan developed under subsection (a) to the Director and Congress and report annually thereafter on the implementation of the plan and performance of the agency in meeting the goals and objectives specified under subsection (a)(7). Such report may be included as part of any of the general management reports required under law.

SEC. 6. DUTIES OF THE DIRECTOR.

(a) IN GENERAL.—The Director, in consultation with agency heads and representatives of non-Federal entities, shall direct, coordinate, and assist Federal agencies in establishing—

(1) a common application and reporting system, including—

(A) a common application or set of common applications, wherein a non-Federal entity can apply for Federal financial assistance from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies;

(B) a common system, including electronic processes, wherein a non-Federal entity can apply for, manage, and report on the use of

funding from multiple Federal financial assistance programs that serve similar purposes and are administered by different Federal agencies; and

(C) uniform administrative rules for Federal financial assistance programs across different Federal agencies; and

(2) an interagency process for addressing—

(A) ways to streamline and simplify Federal financial assistance administrative procedures and reporting requirements for non-Federal entities;

(B) improved interagency and intergovernmental coordination of information collection and sharing of data pertaining to Federal financial assistance programs, including appropriate information sharing consistent with section 552a of title 5, United States Code; and

(C) improvements in the timeliness, completeness, and quality of information received by Federal agencies from recipients of Federal financial assistance.

(b) LEAD AGENCY AND WORKING GROUPS.—The Director may designate a lead agency to assist the Director in carrying out the responsibilities under this section. The Director may use interagency working groups to assist in carrying out such responsibilities.

(c) REVIEW OF PLANS AND REPORTS.—Upon the request of the Director, agencies shall submit to the Director, for the Director's review, information and other reporting regarding agency implementation of this Act.

(d) EXEMPTIONS.—The Director may exempt any Federal agency or Federal financial assistance program from the requirements of this Act if the Director determines that the Federal agency does not have a significant number of Federal financial assistance programs. The Director shall maintain a list of exempted agencies which shall be available to the public through the Office of Management and Budget's Internet site.

(e) REPORT ON RECOMMENDED CHANGES IN LAW.—Not later than 18 months after the date of the enactment of this Act, the Director shall submit to Congress a report containing recommendations for changes in law to improve the effectiveness, performance, and coordination of Federal financial assistance programs.

(f) DEADLINE.—All actions required under this section shall be carried out not later than 18 months after the date of enactment of this Act.

SEC. 7. EVALUATION.

(a) IN GENERAL.—The General Accounting Office shall evaluate the effectiveness of this Act. Not later than 6 years after the date of enactment of this Act, the evaluation shall be submitted to the lead agency, the Director, and Congress. The evaluation shall be performed with input from State, local, and tribal governments, and nonprofit organizations.

(b) CONTENTS.—The evaluation under subsection (a) shall—

(1) assess the effectiveness of this Act in meeting the purposes of this Act and make specific recommendations to further the implementation of this Act;

(2) evaluate actual performance of each agency in achieving the goals and objectives stated in agency plans; and

(3) assess the level of coordination among the Director, Federal agencies, State, local, and tribal governments, and nonprofit organizations in implementing this Act.

SEC. 8. COLLECTION OF INFORMATION.

Nothing in this Act shall be construed to prevent the Director or any Federal agency from gathering, or to exempt any recipient of Federal financial assistance from providing, information that is required for review of the financial integrity or quality of services of an activity assisted by a Federal financial assistance program.

SEC. 9. JUDICIAL REVIEW.

There shall be no judicial review of compliance or noncompliance with any of the provisions of this Act. No provision of this Act shall be construed to create any right or benefit, substantive or procedural, enforceable by any administrative or judicial action.

SEC. 10. STATUTORY REQUIREMENTS.

Nothing in this Act shall be construed as a means to deviate from the statutory requirements relating to applicable Federal financial assistance programs.

SEC. 11. EFFECTIVE DATE AND SUNSET.

This Act shall take effect on the date of enactment of this Act and shall cease to be effective 8 years after such date of enactment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HORN) and the gentleman from Texas (Mr. TURNER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

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

Mr. Speaker, before yielding to my distinguished colleague, the gentleman from Ohio (Mr. PORTMAN), to explain this legislation, I simply wanted my colleagues in the House to know that this bill is nearly identical to H.R. 409, which was unanimously approved by the House on February 24, 1999.

In essence, this legislation requires Federal agencies to coordinate and streamline the process by which applicants apply for grants and other assistance programs, particularly where similar programs are administered by the different Federal agencies.

I believe the Office of Management and Budget currently has the authority to streamline the grant application process, and it should do so. Since it has failed to act, however, I believe this mandate is necessary.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. PORTMAN), the author of this legislation, for a full explanation of the bill.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the legislation before us, the Federal Financial Assistance Management Improvement Act of 1999. I was pleased to be the lead House sponsor of this legislation, along with my friend and colleague, the gentleman from Maryland (Mr. HOYER).

I would like to especially thank the subcommittee chairman, the gentleman from California (Mr. HORN), for helping us get to this point. Even sometimes the best legislation gets tied up in maneuvers between the House and Senate and in committee, and the gentleman from California (Mr. HORN) has been very helpful to getting us to this point.

I would like to thank the gentleman from New Hampshire (Mr. SUNUNU) and others on the subcommittee for their strong support of this legislation. I would also like to recognize my friend and colleague from Ohio, Mr. VOINOVICH, the new Senator from Ohio, who offered the Senate version of this legislation and who has worked closely with us to get this good government legislation to the floor of the House and Senate and to get it done this year.

□ 1300

Mr. Speaker, while the Senate has made some minor amendments, as the gentleman from California (Chairman HORN) has said, this bill is essentially the same legislation that passed the House overwhelmingly earlier this year, H.R. 409. The original Senate bill that we looked at had a 36-month implementation timetable. I am pleased to say in the last few weeks we have been successful at preserving the House language that requires implementation within a short period of time, 18 months.

Every Member of Congress I believe has heard, as I have, from our nonprofit community, from our State and local governments, about the frustration of the process of applying for Federal grants and keeping up with the reporting requirements that follow. That is what this legislation is intended to address.

Right now there are over 600 separate Federal programs that provide financial assistance to State and local governments, tribal governments, and nonprofits. Of those 600 programs, many serve similar purposes but are administered by different agencies.

For example, taxpayers spend about $20 billion a year on 163 job training programs in 15 different Federal agencies. Eleven agencies administer over 90 early childhood programs. Each of these programs has its own unique set of applications, reporting requirements, and other red tape. Too often the grant application process is unnecessarily time-consuming and costly.

As a result, what do organizations do? Many pay professional grantwriters to do the work for them, which reduces, of course, the resources available to address critical problems being targeted. Others who do not have the resources to hire a professional grantwriter take the time and energy to do it themselves, taking time away, of course, from their intended mission.

Small but successful nonprofits in greater Cincinnati, the area I represent, for example, that are struggling to help welfare families make the transition to work or helping to keep kids off drugs should not be having their time, efforts, and resources diverted away from the hard work of their mission toward bureaucratic requirements and the applications that are really unnecessary.

I have talked to a lot of groups that are successful in obtaining a Federal grant. I think other Members have the same experience. Those same groups wonder whether it was worth the effort because of the reporting and administrative burdens that are laid on them.

Recently I have fielded concerns from around the country about implementation of the Drug-Free Communities Act, legislation I cosponsored, I

sponsored here and was enacted in the last Congress. We felt in Congress we gave pretty simple and clear criteria to the agencies. Yet, the initial application process was neither simple nor clear. It was lengthy, complicated, burdensome, costly. As a result, resources were wasted, and this important program was not as successful as it could have been to the very coalitions, the small coalitions that needed it most.

Congress is not above criticism for the way in which we write legislation and report language, but when we give discretion to the agencies, too often that discretion is used to create unnecessary bureaucratic hurdles.

The bill before us this afternoon addresses this problem by requiring Federal agencies with oversight from the Office of Management and Budget to develop plans within 18 months that streamline application, administrative, and reporting requirements; have a uniform application for related programs, ending duplications; demonstrate interagency coordination to simplify reporting requirements for overlapping programs, and finally, a requirement that the electronic funding and filing be used by the agencies.

The electronic filing and electronic funding is a very important part of this bill that is often overlooked but will allow organizations to apply for and report on the use of funds electronically. Using the Internet as a substitute for cumbersome paperwork is a very welcome innovation in the way the Federal government works. We need to bring technology into the Federal government and allow people to do the same with the Federal government that can now be done with the private sector.

The bill also requires OMB to set annual goals to further the purposes of the Act and to expand electronic filings. Agencies are required under this legislation to work closely with State and local governments and the nonprofit community in setting new performance measures that are in the legislation to achieve the bill's goals.

The bill sunsets in 5 years following a review by the National Academy of Public Administration. It is important to point out that by simplifying this grants process, we are not just helping grant applicants, they will be able to access the Federal government using fewer resources, but we are also reducing the workload for the Federal agencies, which in the end will lead to fewer costs to the taxpayer.

This effort we believe is totally consistent with and in fact builds on other efforts that the gentleman from California (Chairman HORN), the gentleman from Maryland (Mr. HOYER), and others of us have been about, such as the Unfunded Mandates Reform Act, as well as efforts to improve Federal performance overall, such as the Government Performance and Results Act, or GPRA.

The bill is a priority and has been endorsed by all the major State and local organizations, such as the National Governors Association, the National Conference of State Legislatures, the National Association of Counties, and the National League of Cities. It is also supported by nonprofit organizations out there, OMB Watch and others. It is a good government measure. It will make it easier for Americans to interact with their Federal Government. Importantly, once it is implemented, it will result in efficiencies and cost savings for both grant applicants and the Federal agencies.

The bottom line is we need to let State and local government, charities, nonprofits around the country, focus on their mission. Too often they are forced to spend time navigating the maze of the Federal bureaucracy, rather than doing what they were intended to do, feed the homeless, find jobs for displaced workers, get people off drugs.

Thanks in part to modern technology, we now have the capacity to free people from those burdens. We should take advantage of that opportunity. That is what this legislation is all about.

Mr. Speaker, I thank the gentleman from Texas (Mr. TURNER), and, again, I thank my colleague, the gentleman from Maryland (Mr. HOYER), who is now here, for his work on this, helping me in a bipartisan way to get this to the floor.

I urge all of my colleagues to support this strong effort to make the government work better for all of our constituents.

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

Mr. Speaker, I rise in strong support of this bill and urge its adoption. I want to recognize the hard work and vision and leadership provided by the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. HOYER). These two Members, working together, were the driving force behind the adoption of this bipartisan piece of legislation.

It is no secret that State, Federal, local, and tribal governments, as well as nonprofit organizations, are very frustrated with the miles of red tape and regulations that they encounter when they have to apply for a Federal grant. The current system clearly is not user-friendly.

In fact, the Federal government has spawned a cottage industry of people known as Federal grantsmen or Federal grants specialists who hire out to our local governments and our State governments just to fill out the paperwork to apply for a Federal grant.

This legislation, which is similar to House Resolution 409, which was unanimously approval by this House on February 24, is designed to streamline and consolidate the grant application process.

There are more than 600 Federal programs that provide financial assistance to State, local, and tribal governments and nonprofits. These funds and the organizations that use them provide vital services to the American public. Countless Americans rely on the Federal assistance that comes from Federal loans for education, job training funds, childhood programs, welfare benefits, medical care, and I could go on.

As we all know, unwieldy administrative barriers can reduce the effectiveness of Federal financial assistance and the services it provides. Similar programs can be administered by numerous different agencies, and administrative requirements can be complicated and repetitive. As a result, federally-funded programs are often forced to use time, effort, and money on paperwork, rather than applying those funds to providing the vital services that the public needs.

As a former mayor of my hometown and as a former member of my State legislature, and as a former executive assistant to a former Governor of Texas, I sympathize with the frustration that people at the local and State level are experiencing when they are forced to handle burdensome Federal regulations for Federal loan applications and Federal grant applications.

This bill would help solve that problem. It would streamline the application process, streamline the reporting process, promote the establishment of consistent procedures for financial assistance programs, and encourage the use of electronic application and reporting processes. It also will assure that the Federal government will receive timely and accurate reporting from the grantee.

With the increasing use of block grants to the States, we should require greater accountability from grant recipients.

It is my understanding that the Senate has agreed to the changes that we have made in this bill, and will quickly move to pass the legislation. I think we can all agree that this is a significant piece of legislation, and again, I commend the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. HOYER) for their efforts on this bill.

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

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

Mr. Speaker, I simply want to thank the minority for its help at both the subcommittee level and the full committee level, and I am delighted to see one of the major Democratic leaders come and help support this legislation.

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

Mr. TURNER. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER), who, as I mentioned a moment ago, is cosponsor of this bill and has worked tirelessly with the gentleman from Ohio (Mr. PORTMAN) to ensure its passage.

Mr. HOYER. Mr. Speaker, I thank my friend, the gentleman from Texas, for yielding time to me, and I thank the gentleman from California (Mr.

HORN) for his comments. I thank both of them for their leadership in facilitating the movement of this bill to the floor today.

At the outset, I want to say what a privilege and pleasure it is to work with the gentleman from Ohio (Mr. PORTMAN), who is one of our finest Members, and who is one of our Members most focused on legislative accomplishments.

Too often we spend time trying to make political points, and I am involved in that and others are involved in that as well. But the gentleman from Ohio (Mr. PORTMAN) has been throughout his career focused on substantive accomplishment, and it is a real privilege and pleasure to work with the gentleman. I thank him for his leadership on this effort.

Mr. Speaker, over the years Congress, as has been pointed out, has created hundreds of programs, 600-plus, of categorical programs to help communities and families deal with various different issues. We did so because we wanted to make sure that the quality of life of our constituents was as good as it possibly could be.

Each of the programs was created, however, with its own nuanced rules and regulations. In some areas local needs do not fit specifically into the designations that are included in the programs. In other areas, there is overlapping and the programs duplicate each other.

For many years as a member of the Subcommittee on Labor, Health and Human Services, and Education, I have talked to the secretaries of those three departments about coordinating their programs so that, whether it is a child or a worker or family, that that family could more easily access the services available across departmental lines.

This bill deals specifically with making sure that grant applicants have an easier time and a more efficient time and a less expensive time in accessing dollars that we want to get as simply and directly as possible to the recipients that are intended to be the beneficiaries of the programs we adopt.

Right now caseworkers spend far too much time dealing with red tape and paperwork. The Federal government has created hundreds of different taps through which assistance flows. Communities, programs, and families must run from tap to tap in many instances with a bucket to help the people that we want to help so well.

One of the analogies I have made is that it is a shame at the Federal level we do not say we want to help child A or family B, and we have a lot of different programs to do that from a lot of different departments, whether it is housing, whether it is nutritional programs out of agriculture, whether it is job programs out of the Department of Labor, education programs out of the Department of Education, Head Start out of HHS, a myriad number of programs, it is a shame that we do not really have a big funnel up here with a spout, and child Mary or family A or B would get the programs coordinated for them by us, that we created. This bill goes some way towards doing that.

I want to again congratulate the gentleman from Ohio (Mr. PORTMAN) for his leadership on this. It requires the Office of Management and Budget to work with other Federal agencies to establish a uniform application for financial assistance for multiple programs across multiple Federal agencies.

That seems to make a lot of sense, as the gentleman from Texas (Mr. TURNER) has said, but it really has not happened too often. Each agency has had its own perspective on one little question that it had to have answered so that it would approve the application, where the other agency did not need the answer to that question, it needed an answer to another question.

Mr. Speaker, it is all the same tax dollars appropriated by and authorized by the same Congress, and what this legislation says is, come on, fellows, let us get our act together and let us have the locals tell us what we need to know in a uniform way, rely on that, and get that grant money out to them without them wasting dollars on administrative procedures.

Some people denigrate bureaucrats. I do not do that, I represent a lot of them. But that does not mean I want to see a proliferation of bureaucracy that money for children and families goes to, simply trying to get through the system. It is critically important not to have to deal with all kinds of different forms when basically the information we are seeking is the same.

Secondly, this bill will simplify reporting requirements and administrative procedures, and again facilitate, not impede, dollars getting to people that we at the Federal level, our State colleagues and local colleagues, all want to assist.

Thirdly, Mr. Speaker, it will develop electronic methods. My friend, the gentleman from Ohio, spoke about that. This is a critically important aspect of this legislation. I was pleased to ensure that we got this online, so to speak, as quickly as possible. It will help develop electronic methods for applying for and reporting of Federal financial assistance funds. I think, as I have said, that this is critically important. In my opinion, the Federal Government's responsibility will be facilitated by this act.

I agree with the gentleman from Texas, and I know the gentleman from Ohio (Mr. PORTMAN) does as well, we are not saying that we do not want full accountability. We have a responsibility to the taxpayers when we authorize and appropriate this money that the money will be spent in a manner that is effective and accomplishes the result for which it is planned.

On the other hand, we want to facilitate, not impede, the application of those dollars, while at the same time requiring accountability.

□ 1315

I believe that S. 468 and the House bill that we are now considering will add a much-needed focus on the coordination of program requirements, both within and across Federal departments.

Mr. Speaker, in closing, I want to mention what I mention a lot of times on this floor, unfortunately, the American public that watches C-SPAN sees too often us fighting with one another, and they do so because really what gets on this floor most of the time is the disagreements that we have, because the agreements that we have are done in a much briefer time frame and do not get the focus that the disagreements get.

Here is a perfect example of a bipartisan piece of legislation worked on by the majority party and its leadership and the gentleman from California (Mr. HORN), the minority party and our leadership, the gentleman from Texas (Mr. TURNER), resulting in a bill put together by the gentleman from Ohio (Mr. PORTMAN), with my help, but he has been the leader on this, he really took up where Senator Glenn left off when Senator Glenn left. That is, I think, going to make a very significant, perhaps not front page news but nevertheless significant step forward for facilitating the application of Federal funds in an efficient and effective manner to make the lives of our constituents better.

I thank the gentleman from Ohio (Mr. PORTMAN) for his leadership and work on this issue. As I said, it has been a pleasure working with him, and I thank the gentleman from California (Mr. HORN) and the gentleman from Texas (Mr. TURNER).

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

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

Mr. HORN. Mr. Speaker, this legislation has been very eloquently pursued by the minority and the majority and I would ask that S. 468 be adopted by this body. We did it before. Let us do it again. It is the right thing to do.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, October 26, 1999.

Hon. DAN BURTON,
Chairman, Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to you concerning the jurisdictional interest of the Transportation and Infrastructure Committee in H.R. 2513, a bill to direct the Administrator of General Services to acquire a building in Terre Haute, Indiana.

Our Committee recognizes the importance of H.R. 2513 and the need for the legislation to move expeditiously. Therefore, while we have a valid claim to jurisdiction over certain provisions of the bill, I do not intend to request a sequential referral. This, of course, is conditional on our mutual understanding that nothing in this legislation or my decision to forego a sequential referral waives, reduces or otherwise affects the jurisdiction of the Transportation and Infrastructure Committee.

With warm personal regards, I remain.

Sincerely,

BUD SHUSTER,
Chairman.

COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, November 1, 1999.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of October 26, 1999 regarding H.R. 2513 a bill directing the Administrator of General Services to acquire a building located in Terre Haute, Indiana.

I agree that the Committee on Transportation and Infrastructure has valid jurisdictional claims to certain provisions in this legislation, and I am most appreciative of your decision not to request such a referral in the interest of expediting consideration of the bill. I agree that by foregoing a sequential referral, the Committee on Transportation and Infrastructure is not waiving its jurisdiction. Further, as you requested, this exchange of letters will be included in the record during floor consideration of this bill.

Thank you for your cooperation in this matter.

Sincerely,

DAN BURTON,
Chairman.

COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, October 29, 1999.

Hon. J. DENNIS HASTERT,
Speaker, Washington, DC.

DEAR MR. SPEAKER: In the interest of expediting floor consideration of H.R. 2513, a bill to direct the Administrator of the General Services to acquire a building located in Terre Haute, Indiana, and for other purposes, the Committee on Government Reform does not intend to exercise its jurisdiction over this bill.

Originally, the bill was scheduled to be marked up by the committee on September 30th. Congressman Horn and Congressman Waxman, however, agreed to give GSA another thirty days before passing H.R. 2513. After thirty days, both resolved that the bill could be considered on the House floor.

As you know, House Rule X, Establishment and Jurisdiction of Standing Committees, grants the Government Reform Committee with jurisdiction over ''government management and accounting measures, generally.'' Our decision not to exercise the Committee's jurisdiction over this measure is not intended or designed to waive or limit our jurisdiction over any future consideration of related matters.

Thank you for your assistance, and I look forward to working with you throughout the 106th Congress.

Sincerely,

DAN BURTON,
Chairman.

Mr. Speaker, having no further requests for time, I yield back the balance of my time.

Mr. TURNER. Mr. Speaker, I too would urge adoption of this very good bipartisan piece of legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is on the motion offered by the gentleman from California (Mr. HORN) that the House suspend the rules and pass the Senate bill, S. 468, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

Mr. MCHUGH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 170) to require certain notices in any mailing using a game of chance for the promotion of a product or service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 170

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 ''Deceptive Mail Prevention and Enforcement Act''.

SEC. 2. RESTRICTIONS ON MAILINGS USING MISLEADING REFERENCES TO THE UNITED STATES GOVERNMENT.

Section 3001 of title 39, United States Code, is amended—

(1) in subsection (h)—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or'';

(2) in subsection (i) in the first sentence—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any contribution or noncontribution; or'';

(3) by redesignating subsections (j) and (k) as subsections (m) and (n), respectively; and

(4) by inserting after subsection (i) the following:

''(j)(1) Any matter otherwise legally acceptable in the mails which is described in paragraph (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

''(2) Matter described in this paragraph is any matter that—

''(A) constitutes a solicitation for the purchase of or payment for any product or service that—

''(i) is provided by the Federal Government; and

''(ii) may be obtained without cost from the Federal Government; and

''(B) does not contain a clear and conspicuous statement giving notice of the information set forth in clauses (i) and (ii) of subparagraph (A).''.

SEC. 3. RESTRICTIONS ON SWEEPSTAKES AND DECEPTIVE MAILINGS.

Section 3001 of title 39, United States Code, is amended by inserting after subsection (j) (as added by section 2(4) of this Act) the following:

''(k)(1) In this subsection—

''(A) the term 'clearly and conspicuously displayed' means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

''(B) the term 'facsimile check' means any matter that—

''(i) is designed to resemble a check or other negotiable instrument; but

''(ii) is not negotiable;

''(C) the term 'skill contest' means a puzzle, game, competition, or other contest in which—

''(i) a prize is awarded or offered;

''(ii) the outcome depends predominately on the skill of the contestant; and

''(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

''(D) the term 'sweepstakes' means a game of chance for which no consideration is required to enter.

''(2) Except as provided in paragraph (4), any matter otherwise legally acceptable in the mails which is described in paragraph (3) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

''(3) Matter described in this paragraph is any matter that—

''(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

''(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

''(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual's chances of winning with such entry;

''(III) does not state all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes;

''(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

''(V) does not contain sweepstakes rules that state—

''(aa) the estimated odds of winning each prize;

''(bb) the quantity, estimated retail value, and nature of each prize; and

''(cc) the schedule of any payments made over time;

''(VI) represents that individuals not purchasing products or services may be disqualified from receiving future sweepstakes mailings;

''(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product or service previously ordered;

''(VIII) represents that an individual is a winner of a prize unless that individual has won such prize; or

''(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures;

''(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

''(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest;

''(II) does not disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

''(III) does not contain skill contest rules that state, as applicable—

''(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

''(bb) that subsequent rounds or levels will be more difficult to solve;

''(cc) the maximum cost to enter all rounds or levels;

''(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

''(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

''(ff) the method used in judging;

''(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

''(hh) the quantity, estimated retail value, and nature of each prize; and

''(ii) the schedule of any payments made over time; or

''(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

''(4) Matter that appears in a magazine, newspaper, or other periodical shall be exempt from paragraph (2) if such matter—

''(A) is not directed to a named individual; or

''(B) does not include an opportunity to make a payment or order a product or service.

''(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed. Any statement, notice, or disclaimer required under subclause (I) or (II) of paragraph (3)(A)(ii) shall be displayed more conspicuously than would otherwise be required under the preceding sentence.

''(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope or outside cover or wrapper in which those materials are mailed.

''(l)(1) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, or individual with power of attorney—

''(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

''(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

''(ii) that attorney general transmits such request to the mailer.

''(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer.''.

SEC. 4. POSTAL SERVICE ORDERS TO PROHIBIT DECEPTIVE MAILINGS.

Section 3005(a) of title 39, United States Code, is amended—

(1) by striking ''or'' after ''(h),'' each place it appears; and

(2) by inserting '', (j), or (k)'' after ''(i)'' each place it appears.

SEC. 5. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.

(a) IN GENERAL.—Section 3007 of title 39, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking subsection (a) and inserting the following:

''(a)(1) In preparation for or during the pendency of proceedings under section 3005, the Postal Service may, under the provisions of section 409(d), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

''(2)(A) Upon a proper showing, the court shall enter an order which shall—

''(i) remain in effect during the pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

''(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under section 3005.

''(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005.

''(3) Mail detained under paragraph (2) shall—

''(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

''(B) be delivered as addressed if such mail is not clearly shown to be the subject of proceedings under section 3005.

''(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

''(b) If any order is issued under subsection (a) and the proceedings under section 3005 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued.''.

(b) REPEAL.—

(1) IN GENERAL.—Section 3006 of title 39, United States Code, and the item relating to such section in the table of sections for chapter 30 of such title are repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 3005(c) of title 39, United States Code, is amended by striking ''section and section 3006 of this title,'' and inserting ''section,''.

(B) Section 3011(e) of title 39, United States Code, is amended by striking ''3006, 3007,'' and inserting ''3007''.

SEC. 6. CIVIL PENALTIES AND COSTS.

Section 3012 of title 39, United States Code, is amended—

(1) in subsection (a) by striking ''$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection.'' and inserting ''$50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000.'';

(2) in paragraphs (1) and (2) of subsection (b) by inserting after ''of subsection (a)'' the following: '', (c), or (d)'';

(3) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and

(4) by inserting after subsection (b) the following:

''(c)(1) In any proceeding in which the Postal Service may issue an order under section 3005(a), the Postal Service may in lieu of that order or as part of that order assess civil penalties in an amount not to exceed $25,000 for each mailing of less than 50,000 pieces; $50,000 for each mailing of 50,000 to 100,000 pieces; with an additional $5,000 for each additional 10,000 pieces above 100,000, not to exceed $1,000,000.

''(2) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil penalty taking into account the nature, circumstances, extent, and gravity of the violation or violations of section 3005(a), and with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such section, the degree of culpability and other such matters as justice may require.

''(d) Any person who violates section 3001(l) shall be liable to the United States for a civil penalty not to exceed $10,000 for each mailing to an individual.''.

SEC. 7. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''§ 3016. Administrative subpoenas

''(a) SUBPOENA AUTHORITY.—

''(1) INVESTIGATIONS.—

''(A) IN GENERAL.—In any investigation conducted under section 3005(a), the Postmaster General may require by subpoena the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material to such investigation.

''(B) CONDITION.—No subpoena shall be issued under this paragraph except in accordance with procedures, established by the Postal Service, requiring that—

''(i) a specific case, with an individual or entity identified as the subject, be opened before a subpoena is requested;

''(ii) appropriate supervisory and legal review of a subpoena request be performed; and

''(iii) delegation of subpoena approval authority be limited to the Postal Service's General Counsel or a Deputy General Counsel.

''(2) STATUTORY PROCEEDINGS.—In any statutory proceeding conducted under section 3005(a), the Judicial Officer may require by

subpoena the attendance and testimony of witnesses and the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Judicial Officer considers relevant or material to such proceeding.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be considered to apply in any circumstance to which paragraph (1) applies.

''(b) SERVICE.—

''(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

''(2) FOREIGN SERVICE.—Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

''(3) SERVICE ON BUSINESS PERSONS.—Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

''(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

''(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

''(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

''(4) SERVICE ON NATURAL PERSONS.—Service of any subpoena may be made upon any natural person by—

''(A) delivering a duly executed copy to the person to be served; or

''(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

''(5) VERIFIED RETURN.—A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the Postmaster General may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

''(2) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28. Any disobedience of any final order entered under this section by any court may be punished as contempt.

''(d) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5.''.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this section, the Postal Service shall promulgate regulations setting out the procedures the Postal Service will use to implement the amendment made by subsection (a).

(c) SEMIANNUAL REPORTS.—Section 3013 of title 39, United States Code, is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following:

''(5) the number of cases in which the authority described in section 3016 was used, and a comprehensive statement describing how that authority was used in each of those cases; and''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''3016. Administrative subpoenas.''.

SEC. 8. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code (as amended by section 7 of this Act) is amended by adding after section 3016 the following:

''§ 3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

''(a) DEFINITIONS.—In this section—

''(1) the term 'promoter' means any person who—

''(A) originates and mails any skill contest or sweepstakes, except for any matter described in section 3001(k)(4); or

''(B) originates and causes to be mailed any skill contest or sweepstakes, except for any matter described in section 3001(k)(4);

''(2) the term 'removal request' means a request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

''(3) the terms 'skill contest', 'sweepstakes', and 'clearly and conspicuously displayed' have the same meanings as given them in section 3001(k); and

''(4) the term 'duly authorized person', as used in connection with an individual, means a conservator or guardian of, or person granted power of attorney by, such individual.

''(b) NONMAILABLE MATTER.—

''(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described in paragraph (2)—

''(A) is nonmailable matter;

''(B) shall not be carried or delivered by mail; and

''(C) shall be disposed of as the Postal Service directs.

''(2) NONMAILABLE MATTER DESCRIBED.—Matter described in this paragraph is any matter that—

''(A) is a skill contest or sweepstakes, except for any matter described in section 3001(k)(4); and

''(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (d); or

''(ii) does not comply with subsection (c)(1).

''(c) REQUIREMENTS OF PROMOTERS.—

''(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a statement that—

''(A) is clearly and conspicuously displayed;

''(B) includes the address or toll-free telephone number of the notification system established under paragraph (2); and

''(C) states that the notification system may be used to prohibit the mailing of all skill contests or sweepstakes by that promoter to such individual.

''(2) NOTIFICATION SYSTEM.—Any promoter that mails or causes to be mailed a skill contest or sweepstakes shall establish and maintain a notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

''(d) ELECTION TO BE EXCLUDED FROM LISTS.—

''(1) IN GENERAL.—An individual (or other duly authorized person) may elect to exclude the name and address of that individual from all lists of names and addresses used by a promoter of skill contests or sweepstakes by submitting a removal request to the notification system established under subsection (c).

''(2) RESPONSE AFTER SUBMITTING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 60 calendar days after a promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall exclude the individual's name and address from all lists of names and addresses used by that promoter to select recipients for any skill contest or sweepstakes.

''(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall remain in effect, unless an individual (or other duly authorized person) notifies the promoter in writing that such individual—

''(A) has changed the election; and

''(B) elects to receive skill contest or sweepstakes mailings from that promoter.

''(e) PRIVATE RIGHT OF ACTION.—

''(1) IN GENERAL.—An individual who receives one or more mailings in violation of subsection (d) may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

''(A) an action to enjoin such violation,

''(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater, or

''(C) both such actions.

It shall be an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent mailings in violation of subsection (d). If the court finds that the defendant willfully or knowingly violated subsection (d), the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

''(2) ACTION ALLOWABLE BASED ON OTHER SUFFICIENT NOTICE.—A mailing sent in violation of section 3001(l) shall be actionable under this subsection, but only if such an action would not also be available under paragraph (1) (as a violation of subsection (d)) based on the same mailing.

''(f) PROMOTER NONLIABILITY.—A promoter shall not be subject to civil liability for the exclusion of an individual's name or address from any list maintained by that promoter for mailing skill contests or sweepstakes, if—

''(1) a removal request is received by the promoter's notification system; and

''(2) the promoter has a good faith belief that the request is from—

''(A) the individual whose name and address is to be excluded; or

''(B) another duly authorized person.

''(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

''(1) IN GENERAL.—

''(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) derived from a list described in subparagraph (B) to another person for commercial use.

''(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) compiled from individuals who exercise an election under subsection (d).

''(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed $2,000,000 per violation.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any promoter—

''(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of $10,000 per violation for each mailing to an individual of nonmailable matter; or

''(B) who fails to comply with the requirements of subsection (c)(2) shall be liable to the United States.

''(2) ENFORCEMENT.—The Postal Service shall, in accordance with the same procedures as set forth in section 3012(b), provide for the assessment of civil penalties under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3016 the following:

''3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.''.

(c) EFFECTIVE DATE.—This section shall take effect 1 year after the date of enactment of this Act.

SEC. 9. STATE LAW NOT PREEMPTED.

(a) IN GENERAL.—Nothing in the provisions of this Act (including the amendments made by this Act) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this Act shall be construed to preempt any provision of State or local law.

(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State.

SEC. 10. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO REPEALED PROVISIONS.—Section 3001(a) of title 39, United States Code, is amended by striking ''1714,'' and ''1718,''.

(b) CONFORMANCE WITH INSPECTOR GENERAL ACT OF 1978.—

(1) IN GENERAL.—Section 3013 of title 39, United States Code, is amended—

(A) by striking ''Board'' each place it appears and inserting ''Inspector General'';

(B) in the third sentence by striking ''Each such report shall be submitted within sixty days after the close of the reporting period involved'' and inserting ''Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved''; and

(C) by striking the last sentence and inserting the following:

''The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the Postmaster General under this section include any information relating to activities of the Inspector General.''.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act, and the amendments made by this subsection shall apply with respect to semiannual reporting periods beginning on or after such date of enactment.

(3) SAVINGS PROVISION.—For purposes of any semiannual reporting period preceding the first semiannual reporting period referred to in paragraph (2), the provisions of title 39, United States Code, shall continue to apply as if the amendments made by this subsection had not been enacted.

SEC. 11. EFFECTIVE DATE.

Except as provided in section 8 or 10(b), this Act shall take effect 120 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. MCHUGH) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MCHUGH).

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 170, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, I am pleased to bring H.R. 170, as amended, to the floor today and would like to take this opportunity to thank the members of my Subcommittee on the Postal Service for their interest, for their hard work in moving this important legislation, particularly thanking the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for his input in making this bill stronger and of a wider appeal.

Mr. Speaker, I would like to also quote from the testimony of the General Accounting Office at the subcommittee's August 14 meeting, which I think summed it up very well, ''When it comes to deceptive mail, which includes sweepstakes and other kinds of mail material,'' quote, ''consumers' problems appear substantial.''

We are all concerned, Mr. Speaker, with the way sweepstakes mailings entice customers, particularly senior citizens, into making unwanted purchases under the mistaken impression that this will somehow enhance their chances of winning.

As I have stated previously, sweepstakes in and of themselves are not evil. In fact, Mr. Speaker, they are often a marketing tool that are accessed by willing and very satisfied individuals, but experience teaches us that when laws fall short, the dishonest often flock and people ultimately will suffer. Now is the time to correct these shortfalls.

H.R. 170, as amended, was carefully developed with our ranking member, the gentleman from Pennsylvania (Mr. FATTAH), and the bill's original author, the gentleman from New Jersey (Mr. LOBIONDO). In keeping with H.R. 170's objective of ensuring honesty in sweepstakes mailing, the amended language incorporates and responds to the extensive testimony submitted at the hearing conducted by the Subcommittee on the Postal Service.

The gentleman from New Jersey (Mr. LOBIONDO) is to be commended for championing the necessary changes to our postal laws in this area, and I also, Mr. Speaker, deeply appreciate the assistance of our other colleagues; as I mentioned earlier, the gentleman from Pennsylvania (Mr. FATTAH), the ranking member, but as well the language in this bill reflects the input of others who also introduced legislation, including the gentleman from California (Mr. ROGAN), the gentleman from Florida (Mr. MCCOLLUM), authors of H.R. 237 and H.R. 2678 respectively.

This language is also based upon Senator SUSAN COLLINS' comprehensive bipartisan sweepstakes mailing legislation, which passed in the other body by a 93-to-0 vote on August 2. We certainly are indebted to Ms. COLLINS and to her staff and the other members of the other body for their interest, for their leadership, and for their guidance.

Mr. Speaker, we have drawn from many sources to craft what I believe is a reasonably balanced and effective piece of legislation. H.R. 170, as amended, would establish strong consumer protections to prevent a number of types of deceptive mailings. It would impose various requirements on sweepstakes mailings, skills contests, facsimile checks and mailings made to look like government documents. It would establish as well strong financial penalties, provide the Postal Service with additional authority to investigate and stop deceptive mailings and preserve the ability of States to impose stricter requirements on such mailings.

Mr. Speaker, I would strongly encourage all Members to fully support the legislation before us. We should join with the other body in advancing this important cause. America's consumers, particularly our senior citizens, are counting on us.

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

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me first of all commend and congratulate the gentleman

from New York (Chairman MCHUGH), and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH) for the very efficient, effective and bipartisan manner in which they have shepherded this legislation through committee.

I also want to commend the gentleman from New Jersey (Mr. LOBIONDO) for the significant role that he played in making sure that we had a good, strong bill and that we have it before us today.

As a member of the Subcommittee on the Postal Service, I am pleased to join the gentleman from New York (Mr. MCHUGH) in the consideration of H.R. 170, the Honesty in Sweepstakes Act of 1999. When signed into law, the legislation will protect vulnerable consumers from unscrupulous operators of deceptive sweepstakes and stop many of the more abusive practices of the sweepstakes industry.

We in the Congress have learned firsthand the financial and emotional costs to consumers from deceptive and fraudulent sweepstakes. This is a serious problem which plagues our elderly and those on limited budgets. To that end, I am proud to have played a part in the House consideration and markup of the Honesty in Sweepstakes Act of 1999.

Last month, the Subcommittee on the Postal Service marked up H.R. 170 and unanimously approved an amendment in the nature of a substitute offered by the ranking minority member, the gentleman from Pennsylvania (Mr. FATTAH) and the gentleman from New York (Mr. MCHUGH).

Our bill, which closely mirrors sweepstakes legislation passed by the Senate in August, would impose disclosure requirements relating to sweepstakes mailings and skill contests, contests in which a prize is awarded based on skill and a purchase payment or donation is required, concerning rules, terms, conditions, sponsor, place of business of sponsor, odds of winning and other information, to help ensure the consumer has complete information about the contest.

It also prohibits mailings that suggest a connection to the Federal Government or that contain false representations implying that Federal Government benefits or services will be affected by participation or nonparticipation in the contest. It requires that copies of checks sent in any mailing must include a statement on the check itself stating that it is nonnegotiable and has no cash value. It requires certain disclosures to be clearly and conspicuously displayed in certain parts of the sweepstakes and skill contest promotion. It requires sweepstakes companies to maintain individual do-not-mail lists and it gives the Postal Service additional enforcement tools to maintain and investigate and stop deceptive mailings, including the authority to impose civil penalties and subpoenas.

The measure before us today adds two very important and critical provisions. First, we provide the Postal Service with subpoena authority to combat sweepstakes fraud and, in addition, we have limited the scope of subpoena authority to only those provisions of law addressing deceptive mailings and required the Postal Service to develop procedures for the issuance of subpoenas. So the issue of consumer protection, whether it relates to telemarketing fraud or sweepstakes deception, is finally receiving the attention it deserves and I am pleased that we are here today at this point and at this time to pass this important legislation.

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

Mr. MCHUGH. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey (Mr. LOBIONDO) who, as I mentioned during my opening remarks, was really a leader in this effort. Through his initiative, in fact, the question was first brought to the attention of our subcommittee last year and, in large measure, this is a product of his efforts.

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

Mr. LOBIONDO. Mr. Speaker, let me take a moment to first thank my colleague from New York (Mr. MCHUGH) for his leadership with the subcommittee and particularly on this issue. The hearing that was held really focused in on the problem, I think, in a very specific way and it allowed us to convince many of our colleagues of the importance of this issue.

I want to thank the gentleman from Indiana (Mr. BURTON), the chairman of the full committee, and the gentleman from Illinois (Mr. DAVIS) and the gentleman from Pennsylvania (Mr. FATTAH) for their help, and my colleague, the gentleman from California (Mr. CONDIT), for his help in garnering votes from the other side and support from the other side.

Mr. Speaker, thousands, if not millions, of Americans will receive some sweepstakes mailing today. Most people disregard these mailings as the marketing ploy that they are. Unfortunately, there are a small percentage of consumers who will open the package with excitement and carefully return the enclosures, often with a payment, in the hope of becoming America's latest millionaire.

Most likely to be impacted by these fraudulent and misleading mailings are some of the most vulnerable in our society, our senior citizens. Sadly, these vulnerable consumers are not being duped merely into entering a hopeless contest. They are, in fact, encouraged to purchase goods from these sweepstakes companies in the thought that these purchases will give them a better chance of winning a huge sum of money.

For seniors, most of whom are on a fixed income, this frivolous spending in the hope of winning untold riches is having an especially detrimental effect. There are stories that abound of life savings being lost, of seniors whose lives are devastated because they feel that they have had an opportunity to gain an advantage in a sweepstakes that was never there from the beginning.

My legislation will prohibit many tactics sweepstakes company use to prey on our most vulnerable consumers. Misleading language such as ''we would feel better if we were giving the prize to a customer'' leads people to believe that a purchase enhances the chances of winning, when it really does not. My bill takes significant steps to prevent vulnerable members of our society from being harmed by predatory sweepstakes companies.

The key provision of H.R. 170 requires that certain clear and easy-to-read honesty disclosures be included in each sweepstakes mailing.

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First, each mailing must include language stating that purchase is not necessary to win a prize, nor does it enhance the chances of winning a prize. It additionally requires other important information such as the odds of winning the grand prize to be displayed prominently in the mailing.

The bill would further crack down on cashier's checks and government document look-alikes, which obviously confuse many seniors and have to lead us to conclude it was the intention to mislead and confuse seniors.

So in conclusion, I want to thank all of my colleagues who worked so hard on this. I think we have a chance to make a real difference today with those in our society who have been the recipients of tactics that all of us wish we could change. We can change that today with this legislation.

Again, I urge all my colleagues to support H.R. 170.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as she might consume to the gentlewoman from New York (Ms. SLAUGHTER), who has long been a protector of consumer interests and consumer rights.

Ms. SLAUGHTER. Mr. Speaker, I certainly thank the gentleman from Illinois (Mr. DAVIS) for allowing me to speak, and I appreciate his support.

I want to thank the gentleman from New Jersey (Mr. LOBIONDO) for bringing this to the floor and the gentleman from New York (Mr. MCHUGH) for his support.

Just take a look at this. Right here, it says up at the top, ''Attention: Time-sensitive material. Contents to be opened by addressee only. Obstruction of U.S. mail punishable by fines up to $2,000 and 5 years imprisonment.''

Now, imagine, one gets this envelope, which looks very much like the one one's Social Security check comes in, and it has everything in the world to make it look like it came from the government. Official communication, it says up there. Extremely urgent. Respond within 5 business days.

Then over on the back, again, it says, ''Documents enclosed intended for the

sole use of the addressee. Tampering is a Federal offense.''

This chart has been enlarged 4,000 times, and it is still barely readable. The fact that everybody, as the gentleman from New Jersey (Mr. LOBIONDO) said, is getting one of these almost every day in the mail is really a scandal. We know they are designed to confuse and mislead the recipients.

Virginia Tierney from the AARP pointed out in her testimony that these deceptive sweepstakes lead older Americans to send in thousands of dollars from their Social Security checks and lifetime savings because they believe what is often also written on here, ''you have automatically won.''

But I want to focus a specific provision of this bill that addresses a strong concern of mine, and that is what I just pointed out, that this mail looks as though it has been distributed or endorsed by a government agency.

The companies are sending these facsimile checks usually in window envelopes that are specifically designed to look like the Social Security envelope. This government look-alike mail motivates the senior to at least open the envelope.

I did not hear about this deceptive mailing practice from my constituents because my colleagues may notice that this was addressed to me, this official communication, which I tampered with at my peril.

Now, in very small print back here on the back of the envelope going on for 33 lines is the official rules detailing that this is in reality a sweepstakes solicitation. It is not a private government document carrying great threats. How dare they usurp government authority in an attempt to frighten people.

I have to be honest, I got dizzy counting the number of lines the small print goes on for. That was because I had tried to read this before it was enlarged. A senior citizen would have to enlarge this envelope to poster size like I did before they could read this small print.

This bill would close the loophole and prohibit all mailings that could reasonably look like government documents in any way, shape, or form, period. Sweepstakes companies need to stop misleading the American people, especially our seniors.

It is past time that the House of Representatives votes to stop these deceptive mailings, and I am more than delighted that this bill has come to the floor.

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

Mr. Speaker, as I mentioned to the gentleman from New Jersey (Mr. LOBIONDO), the author, and ratified in my comments, we have had a number of individuals who were early on supporters of this initiative who had drafted their own approaches from which we drew not just moral support, but legislative language and approaches to the bill.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. MCCOLLUM), an individual who has established in this House a well-deserved reputation as a student of the law and one who had a great deal of input and we had a great deal assistance from.

Mr. MCCOLLUM. Mr. Speaker, I really appreciate the gentleman from New York (Mr. MCHUGH) for his work on this bill and bringing it to the floor, and obviously the gentleman from New Jersey (Mr. LOBIONDO) for introducing it.

I do support the bill. It will reform, as we all know, the deceptive sweepstakes mailing and establish consumer protections through financial penalties and by providing the Postal Service with additional authority to investigate and stop such deceptive mailings. It will also allow States to impose stricter requirements as they see fit on such mailings.

We have had a lot of this sort of thing going on in my State of Florida. We have heard so many of examples. One of them is Eustace Hall of Brandon, Florida who told a story of having spent thousands of dollars trying to win a contest to help his daughter pay for law school. Mr. Hall explained he did not understand there was no requirement that he make a purchase to enter the contest.

That is just not right. I would like to think that, after this legislation is enacted, there will not be more cases like Mr. Hall that we see.

We have been such a hotbed on this that I did introduce a bill that the gentleman from New York (Mr. MCHUGH) was referring to, called the Consumers Choice Sweepstakes Protection Act of 1999. It has been incorporated in this bill almost in toto.

It is the legislation that would require that sweepstakes mailers provide a toll free number or mailing address to be used by individuals wishing to have their names removed from mailing lists or be subject to a civil fine of $1,000 per violation levied by the Postal Service. This legislation was endorsed by the 60 Plus Association and strongly supported by both the AARP and the National Consumers League.

I want to again thank the gentleman from New York (Mr. MCHUGH), the chairman of the Subcommittee on Postal Service, and the gentleman from New Jersey (Mr. LOBIONDO) in working with me today on this and to incorporate this into the bill before us.

I really think what they are doing today in this legislation in H.R. 170 is going to make a big difference in the sweepstakes issue. Most of us read these, and we do fine with it. We understand it. But there are a lot of people who flat out do not. Those who do not want to keep getting these mailings ought to have a chance to say do not send it, and especially the elderly and their family when they do not want to see these things coming across so regularly as they do and the volumes that do.

So I think the toll free number or the mailing address that is provided in the bill enhances it. Again, I want to thank the gentlemen for incorporating it in the bill.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. GREEN). It has been my experience that whenever there is an issue involving consumers and their protection and rights and the needs of the people, one would find the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. DAVIS) for allowing me to speak today. This is something that is near and dear to each of our hearts as individuals.

A few months ago, the daughter of one of my former constituents, her mother just passed away, came by our office and brought a box. She had been sorting through her mother's things. The box was easily bigger than the podium that I am standing at, Mr. Speaker. It was full of letter after letter from these sweepstakes promotors, offers for her mother.

In each mailing was marked in bold print, ''You have won 10 Million Dollars'' or ''Urgent: Prize Claim Documentation Enclosed'' or ''Open and Return Immediately For Your Grand Prize.''

Not only had this woman's mother opened each and every one of these solicitations, but she had fallen into that trap. She thought, due to the tricky and often misleading wording of the mailings that not only did she have to purchase something to win, but by purchasing items she would increase her chances of winning.

This daughter found not only this box of information, but lots of little things that her mother had bought and literally never opened. Each time she responded, each time she bought some worthless knickknack, each time she thought it would finally pay off, all that would happen is more solicitations came in the mail. It was a vicious cycle. Because if one responds to one, then obviously they sell one's name to other people and other groups.

This is a clear example how the sweepstakes industry has taken advantage and exploited some of our most vulnerable members of our society.

I even have one family member in my district who tried to get their mother off the mailing list until, finally, they sent a letter saying, I am sorry, mom passed away, and it took them two times to do that, to get them to quit sending her sweepstakes information, just so she would stop receiving these awful offers and sending them in.

H.R. 170, the Honesty in Sweepstakes Act, will ensure that the same bold print, not tiny print that one cannot read, will be used to state that one is not a winner and that purchasing items will not increase one's odds of winning.

It would require that a toll free number be displayed prominently on the

mailing. Those who wish to not receive these mailings will be able to call that number and be removed from the company's mailing list.

It also provides for penalties for companies that violate or ignore these rules.

This is a good bill that will help protect not only all Americans, but particularly older Americans, many of whom are spending significant portions of their income on these sucker contests. It will be especially helpful to family members who are care givers to our senior citizens. I hope my colleagues will vote for its passage.

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

Mr. Speaker, as we have heard here today, this bill obviously is addressing concerns that are faced by the entire country, but particularly among senior citizens. As we know, particularly when it comes to the State of New York, many of our seniors move to the south and often Florida. We have had a great deal of input and support by the Florida delegation on both sides of the aisle in this matter.

Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. FOLEY), who has been very interested in this issue and very supportive.

Mr. FOLEY. Mr. Speaker, let me thank the gentleman from New York (Mr. MCHUGH) for his leadership on this very important issue that affects seniors and affects all Floridians and all Americans.

Sadie Stern Ott, age 76, of Seminole, Florida said that for years she has bought merchandise from sweepstakes companies, even though she knew that she did not have to buy anything to enter the contest.

She says, ''They send so many envelopes that say 'Return this certificate, saying what would you like to buy, and your merchandise will be delivered when we visit your home to bring you your prize.'''

Ott said she waited at home for the prize patrol several times, especially after the time she got a letter telling her the contest was down to her and another person. But she never won anything. She said, ''I kind of felt that I had been played for a fool.''

Ott said she spent several hundred dollars on magazines and knickknacks. Some seniors have spent thousands of dollars. This is exactly the way the sweepstakes companies cheat seniors out of their modest incomes. Using bright, shiny envelopes and promises of winning millions of dollars, these companies get seniors to buy products that they do not need in hopes of winning large cash prizes. In reality, these people have little, if any, chance of winning.

At a time when many seniors struggle to pay for rent, food, and prescription medication, this cruel scam is inhumane and ethically indefensible.

My own State of Florida has filed suit against Publisher's Clearinghouse for exactly this activity. The Attorney General has charged the company with unfair trade practices and unlawful game promotions.

In addition, Florida, along with three other States, has already won a $4 million settlement against another sweepstakes company, American Family Publishers.

Even though law enforcement officials and consumer protection groups send out notices warning against these mail scams, many people are still drawn into their game.

These fraudulent practices by sweepstakes companies could almost be compared to a criminal coming into someone's home and stealing from them.

I would like to give a special word of thanks to the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from California (Mr. CONDIT) for their work on this bill to establish consumer protections and to prevent sweepstakes companies from swindling people, especially seniors, out of their hard-earned money.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will enter into the RECORD a statement from the Executive Office of the President. I will just read a bit of it. ''The administration strongly supports H.R. 170, the Deceptive Mail Prevention and Enforcement Act, that will be considered on the Suspension Calendar. H.R. 170 would protect consumers against deceptive mailings and sweepstakes practices and reinforce their rights by establishing standards for disclosure and financial penalties for sponsors who fail to comply with those standards.

''H.R. 170 would establish standards for sweepstakes mailings, skill contests, and facsimile checks. The bill would restrict government look-alike documents and create a uniform notification system to allow individuals to remove their names and addresses from all major sweepstakes mailing lists at one time.

''It would also create strong financial penalties for not disclosing all terms, conditions, rules, and entry procedures of a contest, the continuation of mailings after an individual has requested cessation and the failure to comply with the Postal Service stop order.

''H.R. 170 would increase the authority of the Postal Service to investigate and stop deceptive mailings while permitting States to establish a higher level of protection for consumers.

''Congress has heard evidence of widespread confusion by consumers and clearly misleading mailings and sweepstakes practices. The administration urges passage of H.R. 170 to protect consumers and address these concerns.''

I also would like to acknowledge the interest of the gentleman from New York (Mr. LAFALCE), who has had a great deal of interest in this legislation and had intended to speak with regards to it on the floor today, and also the gentleman from Illinois (Mr. BLAGOJEVICH), who has introduced legislation in this area.

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Mr. Speaker, I will just wrap up by suggesting that although some sweepstakes mailings are fair, far too many are not. They deceive consumers into spending money or making purchases, none of which is needed, necessary or required. Savvy marketing techniques and technological advances have allowed sweepstakes promoters to target consumers who respond to the mailings or place orders for products. Mailings often use very aggressive marketing techniques, such as personalizing an address and implying if purchases are not made, the customer may lose her or his preferred customer status. In the most egregious cases, customers have received up to hundreds of mailings a year and spent thousands of dollars ordering items they did not want or need in an attempt to win the big prize.

These deceptive tactics have resulted in thousands of consumer complaints to the Federal Trade Commission, to State Attorneys General, the United States Postal Service, and Members of Congress. Sadly, the victim of these marketing tactics are the elderly, who have difficulty reading the fine print, and believe that in order to be a preferred customer, that they must buy to win that prize.

This is, indeed, an idea now whose time has come. For many years we have looked at this issue and many people have wondered why we have not taken action before. Well, thanks to the gentleman from New Jersey (Mr. LOBIONDO) and the gentleman from California (Mr. CONDIT), certainly to the chairman of the subcommittee, the gentleman from New York (Mr. MCHUGH) and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), we are indeed taking action and we are taking action today.

Mr. Speaker, I submit for the RECORD the letter I mentioned earlier in my remarks.

H.R. 170—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

The Administration strongly supports H.R. 170, the Deceptive Mail Prevention and Enforcement Act, that will be considered on the suspension calendar. H.R. 170 would protect consumers against deceptive mailing and sweepstakes practices and reinforce their rights by establishing standards for disclosure and financial penalties or sponsors who fail to comply with those standards.

H.R. 170 would establish standards for sweepstakes mailings, skill contests, and facsimile checks. The bill would restrict ''government look-alike'' documents and create a uniform notification system to allow individuals to remove their names and addresses from all major sweepstakes mailing lists at one time. It would also create strong financial penalties for: not disclosing all terms, conditions, rules, and entry procedures of a contest; the continuation of mailings after an individual has requested cessation; and the failure to comply with a Postal Service ''stop order.'' In addition, H.R. 170 would increase the authority of the

Postal Service to investigate and stop deceptive mailings while permitting States to establish a higher level of protection for consumers.

Congress has heard evidence of widespread confusion by consumers and clearly misleading mailing and sweepstakes practices. The Administration urges passage of H.R. 170 to protect consumers and address these concerns.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MCHUGH. Mr. Speaker, may I inquire of the Chair how much time is remaining?

The SPEAKER pro tempore (Mr. SUNUNU). The gentleman from New York (Mr. MCHUGH) has 7 minutes remaining.

Mr. MCHUGH. Mr. Speaker, I yield 3¼ minutes to the gentleman from Florida (Mr. MILLER), another member of the Florida delegation that has been so supportive in this effort, and also I might add the sometimes the winter Congressman of my mother, who visits from New York State. So we particularly appreciate his support.

Mr. MILLER of Florida. Mr. Speaker, I wish to rise in strong support of the H.R. 170, the Deceptive Mail Prevention and Enforcement Act and thank the gentleman from New York (Mr. MCHUGH) and also the gentleman from New Jersey (Mr. LOBIONDO) for their support in bringing this legislation to the floor today.

This legislation will help protect Americans from deceptive sweepstakes mailings and other types of deceptive mailings. This is one of the most important consumer issues to come before the 106th Congress, and I view H.R. 170 as one of the Committee on Government Reform's major accomplishments this year. It is a good bill that all my colleagues, Republicans, Democrats, liberals, conservatives and moderates can support.

Several bills concerning deceptive sweepstakes mailings, including H.R. 170, have been introduced in this Congress. Most of my colleagues have probably heard from constituents who have been victims of these deceptive sweepstakes mailings, and this is particularly true with seniors. And with the large number of seniors in my district, this is a very important piece of legislation, because their stories are heartbreaking.

This is a serious problem that Congress needs to address. And because the postal service is an entity of the Federal Government, Congress has the legal means and the duty to strengthen the law against fraudulent mailings. And let me say at the outset that not all sweepstakes mailings are deceptive. Promoters of legitimate sweepstakes have nothing to fear from this legislation.

In August, the General Accounting Office testified before the Subcommittee on Postal Service of the Committee on Government Reform that data has been collected to suggest that consumers were having substantial problems with deceptive mail. The Federal Trade Commission, the American Association of Retired Persons, the National Consumers League also testified on their research in this area and the need for reform to protect consumers.

The Chief Postal Inspector testified on the Postal Inspection Service's need for subpoena power and other additional powers to combat fraudulent mailings. Representatives of the marketers, who send sweepstakes mailings, also testified before the subcommittee. And I think the gentleman from New York (Mr. MCHUGH) has done a great job of producing a bill that reflects input from all the diverse points of view.

H.R. 170 requires sweepstakes mailings to clearly and conspicuously display statements informing consumers that no purchase is necessary to enter the sweepstakes, and that making a purchase or purchases will not increase their chances of winning. I believe this is very important. Because the problem often is that consumers spend large sums of money to order products they do not need all in the mistaken belief that this will increase their chances of winning. It does not. If consumers wish to purchase a product or products, fine, but they need to be made fully aware that this bears no relation to the odds of winning.

With respect to their odds of winning, H.R. 170 requires this be clearly disclosed as well. Further, any check facsimile must include a statement on the check itself that it is nonnegotiable and has no cash value. H.R. 170 also strengthens existing laws regarding government look-alike mailings.

H.R. 170 grants the Postal Service additional authority to combat fraudulent sweepstakes mailings and civil penalties for fraudulent mailings also are significantly increased.

This legislation does not preempt more restrictive State laws in this area. A number of State Attorneys General, including the Indiana Attorney General, has been working very hard on behalf of victims of fraudulent sweepstakes. It is my hope that all my colleagues will support H.R. 170.

Mr. MCHUGH. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. LATOURETTE). And I should hasten to add, having just heard from one of the newest members of the Subcommittee on Postal Service, the gentleman from Florida (Mr. MILLER), we now have the opportunity to hear from one of the more senior members, and certainly one of the most active members on the subcommittee, not just on this legislation but on the broad expansion of issues that we deal with. I am delighted he is able to join us on the floor today to make comments on this initiative.

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

Mr. LATOURETTE. Mr. Speaker, I thank the chairman for the kind words, and I rise in strong support of H.R. 170, the Honesty in Sweepstakes Act of 1999.

I want to thank and congratulate my friend, the gentleman from New Jersey (Mr. LOBIONDO) and also congratulate the chairman of the subcommittee, the gentleman from New York (Mr. MCHUGH), and the ranking member, the gentleman from Pennsylvania (Mr. FATTAH), for their diligence in ensuring that Americans, and the elderly in particular, are protected from unscrupulous and deceptive mailings.

The need for this legislation, Mr. Speaker, was illustrated to me rather clearly this year when we conducted a survey in our district called ''Operation Senior Sweep.'' The project proved to me that seniors are ruthlessly targeted by these companies, and the more they respond the more mailings they received. The highly personalized mailings often lead folks to believe they have won something when they have not. And there is also strong evidence that people believe their chances of winning increase if they purchase something. Often the disclaimers are buried in very fine print.

We found, for instance, one Reader's Digest sweepstakes that carried a 2 million prize. The odds of winning, buried in very tiny type, were one in 199 million. Mr. Speaker, the odds of having quintuplets in this country are one in 85 million. My grandmother, at 89, is more likely to have quintuplets than she is to win the Reader's Digest sweepstakes.

It is obviously the legislation authored by the gentleman from New Jersey (Mr. LOBIONDO) is needed, and it is also clear that some companies know the jig is up when it comes to their deceptive mailings. I will submit for the RECORD a letter dated September 17, 1999. This letter was received by the elderly sister of a woman who lives in my district. It is from the Time Customer Service and, in effect, the company says it cannot process the woman's order for Time because she has already ordered too many magazines and books through a sweepstakes.

This is a staggering admission of wrongdoing on Time's part, I believe. But, unfortunately, this corporate good Samaritan act is way too late to help this elderly woman. One less magazine subscription is not going to help her. She has already lost everything she has owned and saved on sweepstakes.

I also noticed on the plan yesterday a news story about the company that holds the American Family Publishers sweepstakes contests. It announced Friday that it has filed for Chapter 11 bankruptcy after being sued so many times over deceptive and misleading mailings. This is a sweepstakes, Mr. Speaker, that is pitched by celebrity spokesmen Ed McMahon and Dick Clark.

Mr. Speaker, I do not know what Ed McMahon has planned for New Year's Eve, but I do hope that Dick Clark welcomes the new year and the millennium by dropping the ball on American

Family Publishers. Mr. Clark should save his good reputation, stick to American Bandstand and ditch American Scamstand.

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

As we have heard here today, this bill truly is the product of bipartisanship and it started with the gentleman from California (Mr. CONDIT) and the gentleman from New Jersey (Mr. LOBIONDO) and their work, and I think carried through with the support of the gentleman from Indiana (Mr. BURTON), the chairman of the Committee on Government Reform, and the ranking member of the full committee, the gentleman from California (Mr. WAXMAN), as well as the gentleman from Pennsylvania (Mr. FATTAH) and the gentleman from Illinois (Mr. DAVIS), and all the members on both sides of the aisle.

So this is, as we have heard repeatedly, a bill whose time has come. I urge all our colleagues to join us in supporting it.

Mr. LANTOS. Mr. Speaker, I rise today in strong support of H.R. 170, the ''Honesty in Sweepstakes Act of 1999.'' This legislation will curb the devastating effects of one of the most troubling consumer abuses—deceptive and misleading sweepstakes and other mass mail promotions. This legislation will help end this horrendous practice which has been devastating financially and emotionally to many seniors and other individuals on limited budgets.

Mr. Speaker, millions of Americans receive sweepstakes letters each year that use deceptive marketing ploys to encourage the purchase of magazines and other products. Many of my constituents, especially seniors, regularly receive these offers for products in the mail that include extravagant promises of money and prizes in order to entice them to make unnecessary and unneeded purchases.

Some common ploys used by unscrupulous mailers include ''promises'' of huge winnings printed in large type and other enticements such as ''immediate response required—$1 million cash payment pending.'' While these promises scream out in bold letters, the real details and conditions are hidden in fine print at the bottom of the last page where it is hard to find and particularly hard for seniors to read.

Mr. Speaker, each year millions of consumers nationwide are deliberately misled into believing that they have won or are likely to win a sweepstakes, when, in fact, they have neither won, nor are they likely to win. The Honesty in Sweepstakes Act requires that all mailings which offer prizes through games of chance clearly state that the recipient has not automatically won.

Another disgusting and deceptive method, Mr. Speaker, is sending mailings which contain slips of paper which are deceptively printed to look like cashier's checks, but which are actually worthless. These marketing tactics unfairly prey on people's hopes and dreams. H.R. 170 requires that all sweepstakes mailings that contain look-like cashier's checks prominently display that the check itself is non-negotiable and has no cash value.

One deceptive practice which I find particularly offensive is sending mailings which are designed to look like a mailing from a Federal government agency. Seniors have been particularly vulnerable to these tactics, because they are generally more trusting of these mailings. H.R. 170 would prohibit mailings that suggest that they are sanctioned by or connected with the federal government.

Mr. Speaker, H.R. 170 also requires companies that send sweepstakes or ''skill contests'' through the mail to establish a notification system, similar to the ''do not call'' lists of telemarketers under which consumers can call a toll-free number to be removed from mailing lists. The legislation also requires that all sweepstakes mailings contain information about the existence of such ''do not mail'' lists and how a consumer can place his or her name on such a list. I am pleased that the bill will also permit individuals who receive a follow-up mailing after they have requested that their names be removed from a mailing list to sue sweepstakes companies in state court for violation of this law.

Mr. Speaker, many consumers spend thousands of dollars each year on deceptive sweepstakes mailings, often spending their life savings without ever winning anything. H.R. 170 will help to protect consumers from unscrupulous operators of deceptive sweepstakes scams and will help end many of the most abusive practices of the sweepstakes industry. I urge my colleagues to vote in favor of this important legislation.

Mr. MCHUGH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the bill, H.R. 170, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SUPPORTING NATIONAL CIVILITY WEEK

Mrs. BIGGERT. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 324) supporting National Civility Week, Inc., in its efforts to restore civility, honesty, integrity, and respectful consideration in the United States.

The Clerk read as follows:

H. RES. 324

Whereas our civilization is founded upon the values of honesty, courtesy, and respectful consideration among its citizens;

Whereas we seek to teach and reaffirm these fundamental values of civility;

Whereas a lack of civility in recent years has become frighteningly apparent, as seen in media tales of road rage and school violence, of personal deceit and public corruption;

Whereas common courtesy has become bewilderingly uncommon;

Whereas a large part of many Americans' behavior can be traced to a failure to honor the codes of civil conduct that have governed society for many generations;

Whereas the teaching of courtesy has declined while the celebration of vulgarity and effrontery has increased;

Whereas many Americans have ceased to honor the good examples that surround them;

Whereas in this context, too many people find it easy to manifest disrespect for other age groups, races, and religions;

Whereas National Civility Week, Inc. is a nonpartisan and nonprofit corporation devoted to reintroducing civility in our Nation;

Whereas National Civility Week, Inc. has encouraged the establishment of Civility Weeks in a number of states in an effort to reaffirm society's commitment to adhere to well-established rules of civil conduct;

Whereas National Civility Week, Inc. will honor those who practice common decency and simple honesty; and

Whereas National Civility Week, Inc. will draw attention to the behaviors and standards that we respect as a people, and will celebrate the conduct that ties together the threads of our social fabric: Now, therefore, be it

Resolved, That the House of Representatives supports these efforts to restore civility, honesty, integrity, and respectful consideration in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Illinois (Mrs. BIGGERT) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Illinois (Mrs. BIGGERT).

GENERAL LEAVE

Mrs. BIGGERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution under consideration.

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

There was no objection.

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

Mr. Speaker, I rise in support of House Resolution 324, supporting National Civility Week. I would like to thank the distinguished chairman of the House Committee on Government Reform, the gentleman from Indiana (Mr. BURTON), who recognized the importance of this measure and assured its consideration today on the House floor. I also want to express my appreciation to the gentleman from California (Mr. LANTOS) for introducing this important legislation as well.

This resolution provides an opportunity for all of us to reflect upon the changing nature of our culture and its increasing lack of civility. In 1998, former Secretary of Education William Bennett and former Senator Sam Nunn of Georgia collaborated on an assessment of our Nation's civic health. After reviewing rates of volunteerism and other forms of civic participation, they concluded that civility among the American people has declined dramatically in recent decades.

We do not need to look too far to understand that this lack of civility is permeating our political discussion. In the first papers of The Federalist, the author expressed hope that Americans might establish good government through reflection and choice. In contrast to what later essays in The Federalist would call the heat and violence

of faction, the founders hoped that our government would come to reflect the deliberate sense of the community.

Too frequently today this body's deliberations represent the violence of faction through partisan posturing. Too often in our deliberations we hear accusations and innuendo. The occasional lack of civility in this body reflects what is happening to our culture in a broader sense. As a society, we have become detached from and, in many ways, no longer honor the traditional codes of civil conduct.

Reattaching ourselves to a system that honors decency and promotes common courtesy is one of the most important things we can do. This recognition of National Civility Week, while a small gesture, provides an opportunity to reaffirm the importance of civility in our culture as well as in this body's political deliberations. It can provide additional impetus to the bipartisan congressional retreats we hold each year at Hershey and elevate the quality and civility of our political discussions.

I am pleased to have the opportunity to offer this legislation for consideration, and trust that it will draw attention to behaviors and standards that we ought to expect but do not always practice. When I was elected to this body, I pledged to work to restore faith in government through honesty, decency, and personal responsibility.

□ 1400

We must hold ourselves to a higher standard, not a lower one, that we expect of other people. I encourage my colleagues to support this resolution.

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

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

Mr. Speaker, I first wanted to thank many of my colleagues who have worked on this legislation: The gentleman from Indiana (Chairman BURTON), chairman of the Committee on Government Reform; the gentleman from California (Mr. WAXMAN), the ranking Democrat; the gentleman from Florida (Mr. SCARBOROUGH), the chairman of the Subcommittee on Civil Service; and the gentleman from Maryland (Mr. CUMMINGS), the ranking member.

I particularly want to thank my friend and distinguished colleague, the gentlewoman from Illinois (Mrs. BIGGERT), for managing this legislation. Although she has been with us only a short time, she has brought a great deal of civility to this body for which we are deeply grateful.

I also want to thank our colleagues who have been the principal cosponsors of this legislation, the gentleman from Illinois (Mr. LAHOOD) and the gentleman from Ohio (Mr. SAWYER).

As my colleague the gentlewoman from Illinois (Mrs. BIGGERT) has already indicated, these two colleagues have been committed to increasing the civility here within this House. They have been the leading force behind our biannual retreats in an effort to improve personal relations among colleagues here in this body.

Their commitment to improving relations between Members is fully consistent with the purpose of this resolution that we are considering today. I am grateful for their enthusiastic support.

Mr. Speaker, a student-created and student-run nonprofit organization, National Civility Week, Incorporated, deserves our support to restore civility, honesty, integrity, and respectful consideration in the United States.

Our civilization, Mr. Speaker, is founded upon and cannot function without the values of honesty and courtesy and respectful consideration among its citizens. As parents and grandparents, we seek to teach and reaffirm these fundamental values of civility. But unfortunately, the lack of civility in recent years has become frighteningly apparent, as seen in road rage and school violence, personal deceit, and public corruption.

Common courtesy has become bewilderingly uncommon. A large part of many Americans' behavior can be traced to a failure to honor the codes of civil conduct that have governed other societies for so many generations. The teaching of courtesy has declined, while the celebration of vulgarity and effrontery have increased.

Many Americans have ceased to honor the good examples that surround them. In this context, too many people find it easy to manifest disrespect for other age groups, other races, other religions. National Civility Week, Incorporated, is a nonpartisan and nonprofit corporation which is devoted to reintroducing civility to our Nation.

It honors those who practice common decency and simple honesty. It draws attention to the behaviors and standards that we respect as a people and celebrates the conduct that ties together the threads of our social fabric.

I strongly urge all of my colleagues to support this resolution.

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

Mrs. BIGGERT. Mr. Speaker, I have no other speakers and I reserve the balance of my time.

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

Mr. Speaker, in conclusion, I want to pay tribute to the young founder of this organization, Ms. Charity Tillemann-Dick, for her outstanding efforts in bringing this measure to our attention.

I urge my colleagues to support the resolution.

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

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

Mr. Speaker, House Resolution 324 provides a wonderful opportunity to strengthen the character and manner of our public and political deliberations, as well as to improve the way we treat each other.

Congress should seize this opportunity to lead by example. Not only should we pass House Resolution 324, celebrating National Civility Week, but we should provide on a daily basis the examples of civil speech and conduct that contribute to the rule of reason and show the American public that civility does count.

I congratulate the gentleman from California (Mr. LANTOS) for sponsoring this fine legislation. I am proud to bring it to the floor and ask for the full support of all Members on this resolution.

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentlewoman from Illinois (Mrs. BIGGERT) that the House suspend the rules and agree to the resolution, House Resolution 324.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

NOTICE OF INTENTION TO OFFER A RESOLUTION PRESENTING A QUESTION OF THE PRIVILEGES OF THE HOUSE

Mr. VISCLOSKY. Mr. Speaker, pursuant to clause 2(a)(1) of House Rule IX, I rise to give notice of my intent to present a question of privilege to the House expressing the sense that its rights and integrity have been impugned.

The SPEAKER pro tempore. Will the gentleman state the form of his resolution.

Mr. VISCLOSKY. Mr. Speaker, the form of the resolution is as follows:

Calling upon the President to abstain from renegotiating international agreements governing antidumping and countervailing measures.

Whereas under Article I, Section 8 of the Constitution, the Congress has power and responsibility with regard to foreign commerce and the conduct of international trade negotiations;

Whereas the House of Representatives is deeply concerned that, in connection with the World Trade Organization Ministerial meeting to be held in Seattle, Washington, and the multilateral trade negotiations expected to follow, a few countries are seeking to circumvent the agreed list of negotiation topics and reopen debate over the WTO's antidumping and antisubsidy rules;

Whereas strong antidumping and antisubsidy rules are a cornerstone of the liberal trade policy of the United States and are essential to the health of the manufacturing and farm sectors of the United States;

Whereas it has long been and remains the policy of the United States to support its antidumping and antisubsidy laws and to defend those laws in international negotiations;

Whereas the current absence of official negotiating objectives on the statute books must not be allowed to undermine the Congress' constitutional role in charting the direction of United States trade policy;

Whereas under present circumstances, launching a negotiation that includes antidumping and antisubsidy issues would affect

the rights of the House and the integrity of its proceedings;

Whereas opening these rules to renegotiation could only lead to weakening them, which would in turn lead to even greater abuse of the world's open markets, particularly that of the United States;

Whereas, conversely, avoiding another divisive fight over these rules is the best way to promote progress on the other, far more important issues facing the WTO members; and

Whereas it is, therefore, essential that negotiations on these antidumping and antisubsidy matters not be reopened under the auspices of the WTO or otherwise:

Now, therefore, be it *resolved*, That the House of Representatives calls upon the President:

(1) not to participate in any international negotiation in which antidumping or antisubsidy rules are part of the negotiating agenda;

(2) to refrain from submitting for congressional approval agreements that require changes to the current antidumping and countervailing duty laws and enforcement policies of the United States; and

(3) to enforce the antidumping and countervailing duty laws vigorously in all pending and future cases.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Indiana (Mr. VISCLOSKY) will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. VISCLOSKY. Mr. Speaker, I ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. The Chair just stated that the gentleman will be notified.

EXPRESSING SUPPORT OF CONGRESS FOR INCREASING PUBLIC PARTICIPATION IN DECENNIAL CENSUS

Mr. MILLER of Florida. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 193) expressing the support of Congress for activities to increase public participation in the decennial census.

The Clerk read as follows:

H. CON. RES. 193

Whereas the decennial census is required by article I, section 2, clause 3 of the Constitution of the United States;

Whereas, in order to achieve a successful decennial census, the joint efforts of Federal, State, and local government, and of other institutions, groups, organizations, and individuals will be needed;

Whereas the Bureau of the Census has implemented a partnership program through which a comprehensive outreach, education, and motivation campaign is being carried out to encourage all segments of the population to participate in the upcoming census; and

Whereas it is fitting and proper that Congress seek to promote the efforts of the Bureau of the Census, and of the other aforementioned institutions, organizations, groups, and individuals to achieve a successful decennial census: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the importance of achieving a successful decennial census;

(2) encourages State and local governments, community leaders, and all other parties involved in this joint undertaking to continue to work to ensure a successful census;

(3) reaffirms the spirit of cooperation that exists between Congress and the Bureau of the Census with respect to achieving a successful census; and

(4) asserts this public partnership between Congress and the Bureau of the Census to promote the decennial census.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MILLER) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. MILLER).

(Mr. MILLER of Florida asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Florida. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. MILLER of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 193.

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

There was no objection.

Mr. MILLER of Florida. Mr. Speaker, I think it is very appropriate that we take up this legislation immediately following the legislation on civility. This has been a very controversial issue for the past several years, and today we have an issue that with respect to the census is something that we on both sides of the aisle, I think, will agree on.

Specifically, this important bipartisan effort of Congress and the Census Bureau is to join together in a partnership to promote the census. In just under 6 months, the Census Bureau will undertake the largest peacetime mobilization effort in this Nation's history, conducting the 2000 decennial census. This massive undertaking deserves our support at the local level.

The key to ensuring a successful census that counts everyone in America is outreach and promotion in every neighborhood. Broad-based participation in the census must start from within our communities. The Census Bureau must make and use every effort possible to promote participation in the census.

Just last week, the gentlewoman from New York (Mrs. MALONEY), the ranking member of the subcommittee, and I attended the kick-off ceremony for the 2000 Census advertising campaign. The gentlewoman from New York (Mrs. MALONEY) and I are hopeful that this first ever advertising campaign will help to reverse the trend of decreasing mail response rates.

Another important tool to be used by the Census Bureau is the partnership program. Without strong and effective partnerships at the local level, we cannot have a successful census. The fanciest ad campaigns or sophisticated computer programs will all fail if people at the local level do not become involved in the census.

The Census Bureau is in the process of forming these important partnerships with thousands of groups, organizations, and individuals from all sectors of the population, both large and small, ranging from Goodwill industries to local places of worship. It is very appropriate that Congress join with these groups across the Nation by partnering with the Census Bureau.

These partnership programs are designed to utilize resources and knowledge of the local partners. And who knows better the local area and problems the Bureau may face than the Members of the House who work tirelessly for their 435 districts across the Nation?

Moreover, the Members of this House who work tirelessly for their districts all have a vested interest in seeing that their communities get the most accurate count possible. We know what it will take to have a successful census in our districts. It just makes sense for Congress to promote the census.

After all, the decennial census distributes billions of dollars in Federal funds. Data users from demographers to city planners, from businesses to universities, will use census data to determine their communities' needs.

We, as representatives, owe it to our constituents to make sure that they receive the services they need. The best way to do this is through promoting participation in our districts. This is not a Republican issue or a Democratic issue. An accurate census is in everyone's best interest.

More often than not, Mr. Speaker, when I have come to the floor, I have raised serious concerns about the upcoming census. The Census Bureau is going to spend near $4.5 billion in this fiscal year for the 2000 Census. This effort will require very vigorous oversight by the Subcommittee on the Census. The subcommittee still has some concerns about the Bureau's plan and, of course, this issue of the use of estimation remains unresolved, ultimately to be decided by the courts.

However, Mr. Speaker, there are Census Bureau programs that every Member of this body can feel comfortable embracing, and the Congressional Partnership is one of those programs. My staff and the staff of the gentlewoman from New York (Mrs. MALONEY) have been working very hard to make this membership between the Bureau and the House of Representatives a success.

Director Prewitt held briefings for Members and explained the partnership program and answered questions. I believe the Bureau has put together a

comprehensive set of activities that Members can easily take back to their district to increase public participation.

House Concurrent Resolution 193 is a resolution that affirms a partnership between the Census Bureau and the House of Representatives. House Concurrent Resolution 193 recognizes the importance of achieving a successful census, encourages groups to continue to work towards a successful census, reaffirms our spirit of cooperation with the Census Bureau, and asserts a public partnership between Congress and the Bureau of the Census.

□ 1415

While we may have had our differences in the past, the gentlewoman from New York (Mrs. MALONEY) and I have joined forces to introduce this legislation that merits broad based bipartisan support. The decennial census is a cornerstone of our democracy and it is vital that all Members of Congress, Republicans and Democrats alike, publicly support activities to enhance public participation.

I would like to thank the gentlewoman from New York and her staff for their hard work in support of this effort. I would also like to thank the cosponsors. I encourage everyone to vote for House Concurrent Resolution 193.

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

Mrs. MALONEY of New York. Mr. Speaker, I yield myself such time as I may consume.

I likewise would like to thank the gentleman from Florida (Mr. MILLER) for working in such a bipartisan manner on this resolution. We have had our differences in the past over the best way to conduct the census, but I think we both agree that now is the time to put those differences behind us and to get about conducting the most accurate census we can, the massive operation of the 2000 census.

On a personal note, I must say that regardless of our differences, it was never personal, you have always been a gentleman and I have enjoyed tremendously working with you.

I am very happy to join the gentleman from Florida in sponsoring House Resolution 193, a resolution which reaffirms the spirit of cooperation between the Census Bureau and Congress and establishes a public partnership between us. This partnership is vital, because though the Bureau is doing an excellent job in preparing for the 2000 census, it truly is a huge undertaking which deserves all the support we can give it. Just to give Members an idea of the scale of the 2000 census, it will be the largest peacetime mobilization ever conducted by our country. It will count approximately 275 million people in 120 million housing units across our Nation. In order to carry out this massive operation, the Census Bureau will have to process 1.5 million pieces of paper and it will have to do this in a very short time. To conduct the 2000 census, the Bureau will have to fill more than 860,000 temporary positions. This is more people than are currently in the United States Army.

In a very real sense, the 2000 census has already begun. The forms are being printed as we speak and transported around the Nation. The media time for the $160 million advertising campaign is being bought even as we are right here speaking. During the time when the public will be filling out their census forms and mailing them back, February through mid March, the buy on public television and on television in general will be the third largest in the Nation, preceded only by McDonald's and Burger King. It will be in 17 different languages in order to increase awareness and participation in the census 2000. The Bureau plans to open 520 local census offices. One hundred thirty of those are already open. The remaining 390 are leased and will be open on a flow basis through the beginning of next year.

Every Member of Congress needs to do all they can to encourage this partnership with the 2000 census. I urge Members to appoint a census liaison person in their district offices to keep them up to date on local census events. Their offices will be getting a great number of calls and inquiries once the media begins to hit the public. I urge Members to use their newsletters to increase awareness of the census, to produce public service announcements for local cable and network television, to participate in the openings of the local census offices in their districts and participate in other local census events. These are just a few of many ideas on how to promote the census in your districts and to increase a more accurate count.

One program that the Bureau has developed for the census, which is my personal favorite, is the Census in the Schools program. Recently, Rudy Crew, who is the Chancellor of the New York City school system, attended a Census in the Schools program with me in my district, and he pledged to make it a priority in every classroom throughout New York City. More than 50 percent of all those not counted in 1990 were young people, were children. The Census in the Schools project aims to help children learn what a census is and why it is important to them that their families and the community at large participate. The program also aims to increase participation in census 2000 by engaging not only the children but their parents so that they can fill out census forms. It will also help recruit teachers and parents to work as census takers.

Mr. Speaker, State, local and tribal governments as well as businesses and nonprofit organizations have become partners with the Census Bureau in an effort to make the 2000 census the best that we have ever had. The constitutionally mandated census we take every 10 years is one of the most important civic rituals our Nation has. It determines the distribution of political and economic power in our country for a decade. Over $189 billion per year in Federal funds, that is over $2 trillion over 10 years, will be distributed based on census distribution formulas that will build roads, assist day care centers, senior centers, public education, public transportation and many, many of the services that come into our districts and into our local communities. It is an important civic ceremony in which every resident should participate. I urge every Member to actively participate in making it a success.

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

Mr. MILLER of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. RYAN), a member of the subcommittee.

Mr. RYAN of Wisconsin. Mr. Speaker, I would like to thank the chairman of the committee for yielding time.

I just want to say it is a pleasure to serve on this committee with my fellow members, the gentleman from Illinois (Mr. DAVIS), the gentlewoman from New York (Mrs. MALONEY), the gentleman from Florida (Mr. MILLER) and the others as well. We do disagree on methodology from time to time on this issue but clearly in this realm we do not disagree, we all stand united for passage of this resolution and here is why. We as Members of Congress are in a very unique position to promote the census. As the prior speakers had mentioned, the census is an extraordinarily important civic demonstration which has so much consequences in each of our districts, not just on whether or not we are accurately counted for or not but on Federal funding formulas, on redistribution of certain formulas that go back to our districts. We do not want to live with inaccurate data for 10 years. But we can make a difference in our districts. That is why I ask all of my colleagues to get involved in this.

In my district, we have a key person in our district office working on a census plan. I am traveling the district with another Democratic Member of the Congress the gentleman from Wisconsin (Mr. BARRETT) later on this year to do a bipartisan promotion of the decennial census.

Here are some of the examples that any Member of Congress can do to promote the census in their area:

As mentioned before, we can use our congressional newsletters or websites to increase awareness of the upcoming census and what it means to our communities. We can conduct or participate in town hall meetings that emphasize participation in the census. We can support local Complete Count Communities and other community-based partnerships, something that I am very much involved in back home. We can produce and air public service announcements that can be used for local TV, radio and print media outlining uses of census data, confidentiality

guarantees and employment opportunities. We can conduct walking tours and census awareness day activities in hard-to-count communities. We can visit local census offices and training sites to show support for local workers and emphasize the importance of the work they will do for their communities. We can form alliances with local and tribal governments and businesses to promote the importance of the work they will do for their communities. Participate in Census in the Schools forums to encourage local educators and administrators to use the Census in the Schools materials and raise awareness in the schools. We can participate in the grand opening of local census offices. Encourage local businesses to promote the 2000 census and sponsor census activities.

I know that is a mouthful, but it is very convenient, as the Census Bureau has given to each of our offices this handy little kit. It is called the Congressional Partnership Toolkit. This is available in every Member's office. I am sure my colleagues can get additional copies of this. It has very easy to use, digestible forms that we can use to put together plans in our own congressional districts to promote the census. The point is, we have a responsibility as Members of Congress to promote the census on behalf of our own constituents so that we are counted for fully in our congressional districts. There is a plan and there is a way to do this. It is a wonderful opportunity for those of us to get to know other people in our congressional districts, to get government officials working together, to get communities working together. This census is a wonderful civic demonstration.

I encourage every Member of Congress, take a look at this Congressional Partnership Toolkit, made available for us from the Census Bureau, take a look at it, get your offices involved in it, work with other Members of Congress in your delegation across the aisle. This is something that we can work to improve so that everyone is counted for in the next census. It is a wonderful celebration of democracy that we have to take very seriously here. I encourage all of my colleagues to take this issue very, very seriously.

I would like to thank the gentlewoman from New York and the gentleman from Florida for their leadership on this issue.

Mrs. MALONEY of New York. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS), the distinguished member of the Subcommittee on Census. For the past 2 years he has worked selflessly, consistently and with great dedication on any and every census issue. I thank the gentleman for his leadership. We all in this body on both sides appreciate all of his hard work.

Mr. DAVIS of Illinois. Mr. Speaker, I would like to take this opportunity to first of all commend and congratulate the gentleman from Florida (Mr. MILLER) and the gentlewoman from New York (Mrs. MALONEY) for not only the legislative work that they have done in terms of trying to make sure that we have adequate resources for the census but also for the tremendous individual work that they have done to try and make sure that we have a fair, accurate and complete count of all the people in the United States of America. And so I commend and congratulate both of them.

Mr. Speaker, as a member of the Subcommittee on Census, I am pleased today to rise in support of this resolution urging a public and private partnership of the participation in the decennial census. As census day rapidly approaches, it is important for communities to work with the Census Bureau and urge people to participate.

There are several things we can do across the country, no matter where we are, no matter where we live, no matter where we come from to urge participation in the 2000 census. Among these many things include forming a complete count committee, a cross-section of community representatives working to design and implement a localized census 2000 outreach and promotion program. In the Seventh Congressional District of Illinois, I have formed such a committee. They are busy working to ensure full participation. I want to thank Reverend Johnny Miller and Reverend C.L. Sparks for taking the leadership in this effort. We have the Census in the Schools program under way. I want to thank Superintendent Paul Vallas and all of the schools not only in Chicago but throughout my district in the suburban communities of Oak Park, Maywood, Bellwood and Broadview as well.

In addition, we can encourage local businesses, organizations, churches, sororities and fraternities to get involved by providing information through their businesses, calendars, newsletters and church bulletins. An accurate census could ensure fair representation in Federal, State and local governments. An accurate census could mean an extra senior citizen facility or a school.

Thus, I urge communities to form a partnership with the Census Bureau and let us work together to ensure full participation in the 2000 census. I am pleased to support this resolution. Again, I commend the gentleman from Florida and the gentlewoman from New York. I also want to commend the chairman of the Hispanic Caucus on the Census, the gentleman from Texas (Mr. GONZALEZ), and the chairman of the Black Caucus Committee on Census for the outstanding work both of these caucuses have done and are doing throughout their communities in America to try and make sure that we get a fair, complete, honest count. Because if you are not counted, then you do not count.

Mr. MILLER of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SOUDER), another member of the subcommittee.

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

□ 1430

Mr. SOUDER. Mr. Speaker, first I will join with those praising our chairman, the gentleman from Florida (Mr. MILLER), who stuck with this through good times and tough times, as well as the ranking Democrat on the committee, the gentlewoman from New York (Mrs. MALONEY), because it has really been a struggle at times, and then, as has been pointed out here, there are things we agree on.

Whatever the court in the end rules on I believe is guessing, and I believe they will rule to uphold the Constitution, but every Member of this body, Republican or Democrat, has a stake in making sure that this count is as complete as possible within our districts, because if the court rules, as I think they will, that you cannot guess and you have to have a real count, everybody needs to make sure that their count is actual and does not miss the hard-to-reach population. If it is going to be estimated, the estimates will come off of a real count, because ultimately that is how estimating is done as well.

So it is important that every Member get directly involved in every aspect of this. My office has, unfortunately, been involved on a couple of points early on that shows the difficulty of doing the census and why every Member should be paying attention.

Fort Wayne, Indiana, has undergone an aggressive annexation program, unlike many other cities. The Census Department still does not have the right maps in the hands of our counters. In fact, their recent estimate of population, I forget the actual number, is around 30,000 off. Now, 30,000 may not be a big number to Chicago or Los Angeles, but it is a huge number to Fort Wayne, Indiana; and it is inconceivable to me at this late date we are still having trouble with the maps. It has been important for our office to stay involved to back up our local census workers who are very concerned about the lack of accurate maps.

I have also been involved, and we had a great visit with the regional administrators from Chicago who came into Fort Wayne and met with Reverend Humphries and our local citizen group, because we have another problem. Who is going to go door to door? Where are the workers going to come from? What type of people are they going to be?

The two places they are doing the interviews are, in fact, suburban. The undercounted populations are generally minority, hard-to-reach populations, sometimes homeless, sometimes illegal immigrants who also get counted in the census and are important to each one of our districts.

You need to have people in the community organizations who live in that community who can go and reach them and get them to cooperate with the

census, because in fact the mail-out will have a decent response, but, ultimately, particularly in the hard-to-count areas, the door-to-door response and the community organization response is critical. To do that, you need people from within that community.

As a Member of Congress, you know, me going door to door in the urban center of Fort Wayne, I might have some success. But I will tell you what, there is going to be a lot more success if it is an African-American locally based group or Hispanic group or whatever group is in a given area going door to door in these programs, and the Census Bureau needs to take that into account; and you need to help hold them accountable that they are working to where they can get, because sometimes it is hard to recruit and hard to make those people comfortable in coming to work for the Government. If you only do your interviews for employees out in the suburbs, that is who you are going to get.

So hopefully as Members of Congress, not only do the schools and census show up at your local Census Bureau to try to support those workers there, to encourage them in what is a very difficult job, because many people in fact fear that this census is far more intrusive than it is. It takes 5 to 10 minutes, unless you have a long form, which is a whole different ball game and not what we are doing here. The short form is only 5 to 10 minutes, but it scares people off.

Unless you get involved in supporting and encouraging these people, they are going to get demoralized. If they get sloppy, it is each Member of Congress and the people who live in their districts that lose, because our districts will be undercounted; and we have a stake not only for the representation, for the potential as it relates indirectly to grants and other prestige things regarding the size of your cities, but it also relates to the total accumulation in your State in how many Congressmen you have representing you.

For example, there are a number of States right on the bubble that could lose a Congressman if they have an undercount. In other words, you could lose part of your right to vote in your State merely because you did not participate in the census and because your Member of Congress did not help with the count.

We each have a deep stake in this, our communities have a stake in this, the churches do, the people in our districts do; and I encourage each Member to do what they can to get a fair, accurate, and complete count.

Mrs. MALONEY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Indiana (Mr. SOUDER) for his comments. The gentleman rightly pointed out that participating in the census is merely 10 minutes at most every 10 years, so every resident in our country should, at the very least, give 10 minutes every 10 years to be part of this important civic ceremony of the census 2000.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Mrs. MEEK), the distinguished leader of the Census Task Force for the Black Caucus, who earlier this year hosted, along with the gentleman from Florida (Mr. MILLER), a hearing in Florida on the census. The gentlewoman has been a consistent and strong voice of support for the Census Bureau and the census, and I thank the gentlewoman for her leadership.

Mrs. MEEK of Florida. Mr. Speaker, I rise in very strong support of this resolution that has been brought to the floor by the gentlewoman from New York (Mrs. MALONEY) and the gentleman from Florida (Mr. MILLER), with whom I have worked from the very beginning on the census. Each of them has worked assiduously throughout this time to be sure that we get to the place we are now. They are telling us now that they have worked very hard, that Congress has stepped forward, and now the ball is in our court, that is, each one of us as Members have our job to do.

This resolution expresses the support of Congress for activities to increase public participation in our census. That is very important. All this I think is good and it is very fine, but both Members here who introduced this resolution have helped me all along in trying to get a bill passed here in the Congress, a real census bill in addition to the resolution which we are going to pass today. So this real census bill which they have tried to get passed and to get brought to the floor presents a very real and meaningful impact on lowering the undercount of all people, and that is the bill that was called H.R. 683, the Decennial Census Improvement Act.

What it does, it says we have taken the message that these two strong people, the chairman and the ranking member, are bringing to us today in a resolution proposing that we hire welfare recipients and that we hire indigenous people who live in these neighborhoods so that they can help us come up with a good count. Passage of this bill will substantially increase the available core of community-based census enumerators. When members of the communities work as enumerators, we maximize the chance that everyone will be counted.

Let us keep up the good work of this resolution, Mr. Chairman, and even go farther and try our very best to get H.R. 683 passed as well. I again want to thank the ranking member and the chairman.

Mrs. MALONEY of New York. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GONZALEZ), the Chair of the Census Task Force in the Hispanic Caucus, a new Member, a freshman from the great State of Texas. Already the gentleman has brought new leadership and enthusiasm, a tremendous amount of dedication, and long hours really in reaching out to the Latino community, which is one of the largest undercounted communities in America.

We know that 8.4 million people were missed and that 4.4 million were counted twice, and that a large number of those were children and minorities. On behalf of the subcommittee I want to thank the gentleman for all he has done. He has always been there, and he has brought great leadership to this issue.

Mr. GONZALEZ. Mr. Speaker, I rise today in support of this resolution, and again I wish to follow everybody else and commend the chairman and the ranking member of the subcommittee on their fine work and the many hours they have placed into this particular project, which really is of great importance to every American and to everyone on both sides of the aisle.

I think we can all agree, and the speakers before me have pointed out, we have reached a point where we know we need to agree on the task at hand, and that is education, awareness, and participation.

What do I mean by that? We all know that this outreach campaign will underscore benefits of the census participation. We are going to explain to everyone that they have a vested interest in responding to this census. The outreach campaign is the largest ever aimed at increasing participation in the national census. It includes partners from nearly 30,000 community groups, civic organizations, labor unions, the Congress, Federal agencies and corporations, as well as elected officials at the State, local and tribal governmental levels.

What does it mean to me personally? I do not want to occasion the same mistakes that we had back in 1990 that resulted in undercount in my State of Texas of 500,000 residents, 250,000 of which were Hispanic. I do not want that same mistake repeated. I do not want history to be repeated in my district, where we missed 39,000 residents, 16,000 of which were children, enough to fill 29 schools and to hire 1,000 teachers.

They did not exist for the purpose of the census, but we still had to teach them; we still had to house them; we still had to feed them. They participated in every program at the State, local and, of course, national level; but, for all intents and purposes, they did not exist, and we cannot afford for that to happen again.

Every Member in this House knows their district better than anyone else, so it is a unique challenge. But it is also a unique opportunity to do our fair share, our responsibility, and make this the most accurate census in the history of our Nation.

Mr. MILLER of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we as representatives bring a unique ability to the census to

help make it the most accurate possible. There are 435 of us and each of us represents a little different area. Several that have spoken today each have their own individual problems.

My district in Florida, Sarasota, and Bradenton, in Florida, have large numbers of retirees. A lot of them are just what we call ''snow birds'' that come down temporarily from northern States. They live in mobile home parks, they live in high-rise condos, and they create a problem of how do we count them.

We have, because of agriculture, a certain number of immigrant migrant workers that are hard to count. The gentleman from Texas (Mr. GONZALEZ) is close to the Mexican border. He has a very difficult challenge to have people counted.

The district of the gentlewoman from New York (Mrs. MALONEY) is actually, surprisingly, Manhattan, a very affluent area, but, again, a very difficult area to count. Because of the high-rise co-ops that are there, it makes it hard to get in to count people.

But the fact is we all can contribute something. The district of the gentleman from Wisconsin (Mr. RYAN) has a lot of rural areas. There is a high mail response rate out of Wisconsin. However, because of the rural nature, it makes it difficult. We had a hearing out in Arizona where we were out on an Indian reservation, again, one of the most undercounted parts of our population, and very difficult to count these huge rural areas where it is hard to find people.

But the thing is we know our areas. We have a vested interest, as the other speakers have said, to make sure we get the best count possible. The Census Bureau has come up through this notebook, as the gentleman from Wisconsin (Mr. RYAN) pointed out, ideas of how we can help prepare our communities and provide that support. There is an action list, and it is on my Web site on my particular home page in the computer; and let me make a couple of comments of some of the items we can do to help contribute to a better count.

First of all, we have a Complete Count Committee. Make sure they are organized in your communities. In Sarasota Thursday night last week they had a hearing where Chairman Shannon Staub of the County Commission and County Commissioner Ray Pilon with members of the Census Bureau were there discussing getting ready for the count for next March and April. Work with these groups.

Encourage your local businesses and local governments to get involved. Do things like put something in the newsletters for their employees, or if they are sending out newsletters, to their customers. In my county, hopefully the utility people will put in their bills a statement to remind people in March to get involved in the census.

There are a number of ways you can promote it. Put posters up in your places of work where customers will see it. Reach out to the groups that are hard to count. For example, I am going to try to reach out to the migrant community where we have a lot of migrant workers in our area, whether it is going out and walking through the neighborhoods and bringing attention, getting news coverage of it, making people aware of the census, but also making people aware of the confidentiality of the information.

This is one of the greatest challenges we have, is to make people aware that it is a Federal crime to disclose information on the census. As a Member of Congress, we all get to have classified information available to us. But when we go to the Census Bureau, I have to go and raise my hand and sign a pledge, an oath, to not disclose that information. It is confidential for 72 years, and the Secret Service, the IRS, the INS, they do not have access to that information for 72 years. So each office should get involved, because, I guarantee you, there is going to be a need for information on the census.

☐ 1445

When this ad campaign cranks up soon, we are going to start getting calls: How do we get jobs? I do not like this question. I never got my form.

The more Members know about it, the better off this office is going to be. Do things in the difficult-to-count areas. They are the ones we need to concentrate on and to make sure people are aware of it.

In addition to being aware of it, we need to have action. That is the reason the Census Bureau uses a theme, ''It is your future. Don't leave it blank.'' You have to be aware of the Census, but you have to fill out the form. That is the reason you have to have the action to complete, and get the form completed and sent in.

There are a lot of things we can do: writing op eds for the local newspaper, whether it is the column in the weekly paper or a special editorial the Members will put in. Do some public service announcements on the television or radio stations. They will be glad to run them, especially as it gets close to the April 1 deadline.

We all agree we have to get the most accurate possible Census. We as Members of Congress have that special role where we can have the credibility and give some support to get that job done.

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

Mrs. MALONEY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for his comments. I want to understore what the gentleman said about the Congressional Partnership Toolkit. Every single congressional office has a copy of this booklet that has all kinds of projects and ways that we can increase awareness and participation in our home districts.

Mr. Speaker, I am very pleased to yield 3 minutes to the gentleman from Tennessee (Mr. FORD), another member of our Subcommittee on Census who has joined us. We thank him for his leadership and hard work.

Mr. FORD. Mr. Speaker, I thank the gentleman from Florida (Mr. MILLER) and the gentlewoman from New York (Mrs. MALONEY). I say to the gentleman from Florida, we have had our disagreements on the committee, but it is certainly great to see us come together on this day and support this resolution.

Today many States and cities are holding elections around the Nation. We see people exercising their civic duty and responsibility. The Census, as we all know, represents another opportunity for Americans from everywhere in this great Nation to exercise another important civic duty.

A few months back Dr. Prewitt, who deserves some praise and adulation as well, the head of the U.S. Census, was in my district, as I am sure he has been in many districts around the country. He talked about the Census from three aspects: the fact that it builds resources, representation and recognition.

Resources have been touched on. Some $2 trillion over the next 10 years will be allocated based on the formulas determined by the Census numbers; representation, because political power is divided among the congressional districts and within areas based on the Census numbers; and finally, recognition, because as we all know, our Nation is made up of a patchwork of people from different backgrounds, different religious, racial, and gender backgrounds.

It is estimated in 1990, 8 million people were missed nationally, as the gentlewoman from New York (Mrs. MALONEY) has touched upon. Some 86,000 were in my State of Tennessee, and 18,000 are right near Memphis, the district which I represent.

Of the folks missed, 10,000 of those were children in my district, enough to fill 17 schools and employ 350 additional teachers. In addition, Tennesseeans, particularly those in the Ninth District, lost out in our fair share of Head Start dollars, on school lunch and educational technology funds, and even businesspeople, researchers, and economists in our district, were deprived of accurate data as they attempted to create or to plan for technological advances to create new jobs and economic growth.

In Memphis we have established a Complete Count Committee made up of community, business, and civic leaders, following the guide of the gentleman from Florida (Mr. MILLER) and certainly our ranking member, the gentlewoman from New York (Mrs. MALONEY) in trying to ensure that we have participation from all aspects of the community.

One of the great challenges we will have in the coming weeks and months is for Members of Congress and those in the community to do all that we can to

raise awareness. I certainly am committed, Mr. Chairman, and the gentlewoman from New York (Mrs. MALONEY), and I hope all our colleagues will do the same. We must work to ensure that every citizen participates in this very important civic exercise, not only to be counted but to be recognized, and to ensure that everyone on April 1, 2000, is counted.

I cannot say enough how much I appreciate the leadership of the gentleman from Florida (Mr. MILLER), and certainly that of the gentlewoman from New York (Mrs. MALONEY). She has given me some ideas, and I am sure she has given my colleagues throughout this body ideas on how we might move forward and ensure all are counted on that very important day.

Mrs. MALONEY of New York. Mr. Speaker, I yield back the balance of my time.

Mr. MILLER of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, one thing we all agree on is that we want to have the most accurate count responsible. This is a constitutional responsibility. Article 1 of our Constitution requires us to do this every 10 years.

Since Thomas Jefferson did the first Census in 1790, we have had some problems with it. We recognize there is a problem of a differential undercount. That is wrong. We want the best count possible.

One way that each of us, all 435 of us, can help make that possible is to participate in our local communities, which we know best how to help promote the Census, how to help get people to believe that the Census is confidential, and to complete those forms.

Now is the time to prepare for the Census time next March. I encourage all Members to get involved, and I encourage my colleagues to support this legislation.

Mr. REYES. Mr. Speaker, I rise in support of this important resolution.

I would like to begin by recognizing the hard work of my colleagues, Chairman DAN MILLER and Congresswoman CAROLYN MALONEY. They have worked tirelessly on this issue, and I applaud their efforts on this extremely important issue.

H. Con. Res. 193 expresses the support of Congress for activities to increase public participation in the decennial census. As we all know, in order to achieve a successful decennial census, the joint efforts of Federal, State, and local government and other interested parties and grassroots organizations must come together as partners.

The Bureau of the Census has implemented a partnership program through which a comprehensive outreach, education, and motivation campaign is being carried out to encourage all segments of the population to participate in the upcoming census. As I have said many times, Texas has a lot at stake in the current debate over the year 2000 Census. The County of El Paso has a lot to lose if the 2000 Census is conducted the way the 1990 Census was conducted.

In 1900, the census used a traditional head count and made about 26 million mistakes. It missed over 8 million people completely, double-counted over 4 million and put 13 million in the wrong places. And most of the undercount involved children, people of color and the urban and rural poor.

The Census Bureau estimates that in Texas, the net undercount of residents in 1990 was over 486,000 individuals. The net undercount rate in Texas was .028, which represented the second most undercounted state in the nation. They were either out of town, tossed the form with the junk mail, did not trust the government, feared immigration or bill collection officials, lived in a neighborhood the census workers did not feel like checking.

Whatever the reason, too many individuals were missed. Included in this are over 279,000 Caucasians, 83,300 blacks, 247,000 individuals of Hispanic origin, 8,500 Asian and Pacific Islanders and, over 1,875 American Indians. In addition, over 228,300 children were missed in Texas. Over 25,000 individuals were missed in El Paso alone, enough to fill half of the Sun Bowl. We were the 17th most undercounted district in the nation.

The failure of the 1990 Census to accurately count the population in El Paso County seriously shortchanged the Federal funding that cities within my district should have received during the past decade. In effect, cities like El Paso, Anthony and Socorro were required to utilize funds for schools, roads, health facilities, housing, and other important services for people that were not counted by the census.

The number of children missed in the 16th Congressional district would fill 22 schools staffed by 770 teachers. According to the Council of Great City Schools, every child not counted by the census means that some $650 in federal resources is lost each year by the school that must educate that child. This equals over $8 million lost in my Congressional district alone!

We are not alone. The 1990 Census did the same thing nationwide. Two million of those missed in 1990 were children under the age of 18—half the net undercount although they were only about a quarter of the U.S. population in 1990. The 1990 Census affected minorities the most: 4.4 percent of blacks were missed, 5 percent of Hispanics, 12.2 percent of at least one tribe of Native Americans. This differential racial undercount must be addressed by the 2000 Census.

This resolution is sending the right message at the right time—that public participation is necessary to ensure that everyone is counted, especially children, people of color and the urban and rural poor. Anything less is unacceptable.

Ms. JACKSON-LEE of Texas. Mr. Speaker, to cope with the year 2000 census, the Census Bureau has implemented a partnership program through which a comprehensive outreach, education and motivation campaign is being carried out to encourage all segments of the population to participate in the upcoming count.

This resolution expresses the support of Congress for activities to increase public participation in the decennial census; recognizes the importance of achieving a successful decennial census; encourages state and local governments, community leaders, and all other parties involved in this joint undertaking to continue to work to ensure a successful census; and reaffirms the spirit of cooperation that exists between Congress and the Census Bureau with respect to achieving a successful census.

Hundreds of thousands of census takers and support personnel will be needed to account for the anticipated 118 million housing units and 275 million people across the United States. But it isn't its size that makes Census 2000 important. It is all the things that we will learn about ourselves that will help America succeed in the next millennium. The census is as important to our nation as highways and telephone lines. Federal dollars supporting schools, employment services, housing assistance, highway construction, hospital services programs for the elderly and more are distributed based on census figures.

How do we know who we are as a country? We only take one big portrait of this country—that is the decennial Census. And if you're not in it, you will be unrecognized. More than $200 billion in federal funds is distributed to the states based on census figures, as well as political apportionment in the House of Representatives.

Census 2000 will help decision-makers understand which neighborhoods need schools and which ones need greater services for the elderly. But they won't be able to tell what your community needs if you and your neighbors don't fill out your census forms and mail them back.

The message is a simple one, Mr. Speaker; ''This is your future. Don't leave it blank.'' I encourage my colleagues and all Americans to help the Census Bureau in making this snapshot of America's population clearer. If we are not counted, then we are invisible and our communities will lose its fair share of federal funding and political apportionment—we can all help our community and our nation by filling out the census questionnaire, returning it and being counted.

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Florida (Mr. MILLER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 193.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 900, GRAMM-LEACH-BLILEY ACT

Mr. LEACH submitted the following conference report and statement on the Senate bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes:

CONFERENCE REPORT (H. REPT. 106–434)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 900), to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other

purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Gramm-Leach-Bliley Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG BANKS, SECURITIES FIRMS, AND INSURANCE COMPANIES

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act repeals.
Sec. 102. Activity restrictions applicable to bank holding companies that are not financial holding companies.
Sec. 103. Financial activities.
Sec. 104. Operation of State law.
Sec. 105. Mutual bank holding companies authorized.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Cross marketing restriction; limited purpose bank relief; divestiture.
Sec. 108. Use of subordinated debt to protect financial system and deposit funds from ''too big to fail'' institutions.
Sec. 109. Study of financial modernization's effect on the accessibility of small business and farm loans.

Subtitle B—Streamlining Supervision of Bank Holding Companies

Sec. 111. Streamlining bank holding company supervision.
Sec. 112. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 113. Role of the Board of Governors of the Federal Reserve System.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Elimination of application requirement for financial holding companies.
Sec. 117. Preserving the integrity of FDIC resources.
Sec. 118. Repeal of savings bank provisions in the Bank Holding Company Act of 1956.
Sec. 119. Technical amendment.

Subtitle C—Subsidiaries of National Banks

Sec. 121. Subsidiaries of national banks.
Sec. 122. Consideration of merchant banking activities by financial subsidiaries.

Subtitle D—Preservation of FTC Authority

Sec. 131. Amendment to the Bank Holding Company Act of 1956 to modify notification and post-approval waiting period for section 3 transactions.
Sec. 132. Interagency data sharing.
Sec. 133. Clarification of status of subsidiaries and affiliates.

Subtitle E—National Treatment

Sec. 141. Foreign banks that are financial holding companies.
Sec. 142. Representative offices.

Subtitle F—Direct Activities of Banks

Sec. 151. Authority of national banks to underwrite certain municipal bonds.

Subtitle G—Effective Date

Sec. 161. Effective date.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

Sec. 201. Definition of broker.
Sec. 202. Definition of dealer.
Sec. 203. Registration for sales of private securities offerings.
Sec. 204. Information sharing.
Sec. 205. Treatment of new hybrid products.
Sec. 206. Definition of identified banking product.
Sec. 207. Additional definitions.
Sec. 208. Government securities defined.
Sec. 209. Effective date.
Sec. 210. Rule of construction.

Subtitle B—Bank Investment Company Activities

Sec. 211. Custody of investment company assets by affiliated bank.
Sec. 212. Lending to an affiliated investment company.
Sec. 213. Independent directors.
Sec. 214. Additional SEC disclosure authority.
Sec. 215. Definition of broker under the Investment Company Act of 1940.
Sec. 216. Definition of dealer under the Investment Company Act of 1940.
Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 218. Definition of broker under the Investment Advisers Act of 1940.
Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.
Sec. 220. Interagency consultation.
Sec. 221. Treatment of bank common trust funds.
Sec. 222. Statutory disqualification for bank wrongdoing.
Sec. 223. Conforming change in definition.
Sec. 224. Conforming amendment.
Sec. 225. Effective date.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

Sec. 231. Supervision of investment bank holding companies by the Securities and Exchange Commission.

Subtitle D—Banks and Bank Holding Companies

Sec. 241. Consultation.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

Sec. 301. Functional regulation of insurance.
Sec. 302. Insurance underwriting in national banks.
Sec. 303. Title insurance activities of national banks and their affiliates.
Sec. 304. Expedited and equalized dispute resolution for Federal regulators.
Sec. 305. Insurance customer protections.
Sec. 306. Certain State affiliation laws preempted for insurance companies and affiliates.
Sec. 307. Interagency consultation.
Sec. 308. Definition of State.

Subtitle B—Redomestication of Mutual Insurers

Sec. 311. General application.
Sec. 312. Redomestication of mutual insurers.
Sec. 313. Effect on State laws restricting redomestication.
Sec. 314. Other provisions.
Sec. 315. Definitions.
Sec. 316. Effective date.

Subtitle C—National Association of Registered Agents and Brokers

Sec. 321. State flexibility in multistate licensing reforms.
Sec. 322. National Association of Registered Agents and Brokers.
Sec. 323. Purpose.
Sec. 324. Relationship to the Federal Government.
Sec. 325. Membership.
Sec. 326. Board of directors.
Sec. 327. Officers.
Sec. 328. Bylaws, rules, and disciplinary action.
Sec. 329. Assessments.
Sec. 330. Functions of the NAIC.
Sec. 331. Liability of the association and the directors, officers, and employees of the association.
Sec. 332. Elimination of NAIC oversight.
Sec. 333. Relationship to State law.
Sec. 334. Coordination with other regulators.
Sec. 335. Judicial review.
Sec. 336. Definitions.

Subtitle D—Rental Car Agency Insurance Activities

Sec. 341. Standard of regulation for motor vehicle rentals.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

Sec. 401. Prevention of creation of new S&L holding companies with commercial affiliates.

TITLE V—PRIVACY

Subtitle A—Disclosure of Nonpublic Personal Information

Sec. 501. Protection of nonpublic personal information.
Sec. 502. Obligations with respect to disclosures of personal information.
Sec. 503. Disclosure of institution privacy policy.
Sec. 504. Rulemaking.
Sec. 505. Enforcement.
Sec. 506. Protection of Fair Credit Reporting Act.
Sec. 507. Relation to State laws.
Sec. 508. Study of information sharing among financial affiliates.
Sec. 509. Definitions.
Sec. 510. Effective date.

Subtitle B—Fraudulent Access to Financial Information

Sec. 521. Privacy protection for customer information of financial institutions.
Sec. 522. Administrative enforcement.
Sec. 523. Criminal penalty.
Sec. 524. Relation to State laws.
Sec. 525. Agency guidance.
Sec. 526. Reports.
Sec. 527. Definitions.

TITLE VI—FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION

Sec. 601. Short title.
Sec. 602. Definitions.
Sec. 603. Savings association membership.
Sec. 604. Advances to members; collateral.
Sec. 605. Eligibility criteria.
Sec. 606. Management of banks.
Sec. 607. Resolution Funding Corporation.
Sec. 608. Capital structure of Federal home loan banks.

TITLE VII—OTHER PROVISIONS

Subtitle A—ATM Fee Reform

Sec. 701. Short title.
Sec. 702. Electronic fund transfer fee disclosures at any host ATM.
Sec. 703. Disclosure of possible fees to consumers when ATM card is issued.
Sec. 704. Feasibility study.
Sec. 705. No liability if posted notices are damaged.

Subtitle B—Community Reinvestment

Sec. 711. CRA sunshine requirements.
Sec. 712. Small bank regulatory relief.
Sec. 713. Federal Reserve Board study of CRA lending.
Sec. 714. Preserving the Community Reinvestment Act of 1977.
Sec. 715. Responsiveness to community needs for financial services.

Subtitle C—Other Regulatory Improvements

Sec. 721. Expanded small bank access to S corporation treatment.
Sec. 722. ''Plain language'' requirement for Federal banking agency rules.
Sec. 723. Retention of ''Federal'' in name of converted Federal savings association.

Sec. 724. Control of bankers' banks.
Sec. 725. Provision of technical assistance to microenterprises.
Sec. 726. Federal Reserve audits.
Sec. 727. Authorization to release reports.
Sec. 728. General Accounting Office study of conflicts of interest.
Sec. 729. Study and report on adapting existing legislative requirements to online banking and lending.
Sec. 730. Clarification of source of strength doctrine.
Sec. 731. Interest rates and other charges at interstate branches.
Sec. 732. Interstate branches and agencies of foreign banks.
Sec. 733. Fair treatment of women by financial advisers.
Sec. 734. Membership of loan guarantee boards.
Sec. 735. Repeal of stock loan limit in Federal Reserve Act.
Sec. 736. Elimination of SAIF and DIF special reserves.
Sec. 737. Bank officers and directors as officers and directors of public utilities.
Sec. 738. Approval for purchases of securities.
Sec. 739. Optional conversion of Federal savings associations.
Sec. 740. Grand jury proceedings.

TITLE I—FACILITATING AFFILIATION AMONG BANKS, SECURITIES FIRMS, AND INSURANCE COMPANIES

Subtitle A—Affiliations

SEC. 101. GLASS-STEAGALL ACT REPEALS.

(a) SECTION 20 REPEALED.—Section 20 of the Banking Act of 1933 (12 U.S.C. 377) (commonly referred to as the ''Glass-Steagall Act'') is repealed.

(b) SECTION 32 REPEALED.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES THAT ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

''(8) shares of any company the activities of which had been determined by the Board by regulation or order under this paragraph as of the day before the date of the enactment of the Gramm-Leach-Bliley Act, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation or order, unless modified by the Board);''.

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking '', to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,''.

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by inserting before the period at the end the following: ''as of the day before the date of the enactment of the Gramm-Leach-Bliley Act''.

SEC. 103. FINANCIAL ACTIVITIES.

(a) IN GENERAL.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended by adding at the end the following new subsections:

''(k) ENGAGING IN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a financial holding company may engage in any activity, and may acquire and retain the shares of any company engaged in any activity, that the Board, in accordance with paragraph (2), determines (by regulation or order)—

''(A) to be financial in nature or incidental to such financial activity; or

''(B) is complementary to a financial activity and does not pose a substantial risk to the safety or soundness of depository institutions or the financial system generally.

''(2) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(A) PROPOSALS RAISED BEFORE THE BOARD.—

''(i) CONSULTATION.—The Board shall notify the Secretary of the Treasury of, and consult with the Secretary of the Treasury concerning, any request, proposal, or application under this subsection for a determination of whether an activity is financial in nature or incidental to a financial activity.

''(ii) TREASURY VIEW.—The Board shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Secretary of the Treasury notifies the Board in writing, not later than 30 days after the date of receipt of the notice described in clause (i) (or such longer period as the Board determines to be appropriate under the circumstances) that the Secretary of the Treasury believes that the activity is not financial in nature or incidental to a financial activity or is not otherwise permissible under this section.

''(B) PROPOSALS RAISED BY THE TREASURY.—

''(i) TREASURY RECOMMENDATION.—The Secretary of the Treasury may, at any time, recommend in writing that the Board find an activity to be financial in nature or incidental to a financial activity.

''(ii) TIME PERIOD FOR BOARD ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Secretary of the Treasury under clause (i) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate under the circumstances), the Board shall determine whether to initiate a public rulemaking proposing that the recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, if the Board determines not to seek public comment on the proposal, the reasons for that determination.

''(3) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to a financial activity, the Board shall take into account—

''(A) the purposes of this Act and the Gramm-Leach-Bliley Act;

''(B) changes or reasonably expected changes in the marketplace in which financial holding companies compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a financial holding company and the affiliates of a financial holding company to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) efficiently deliver information and services that are financial in nature through the use of technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions; and

''(iii) offer customers any available or emerging technological means for using financial services or for the document imaging of data.

''(4) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—For purposes of this subsection, the following activities shall be considered to be financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

''(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing, in any State.

''(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

''(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

''(E) Underwriting, dealing in, or making a market in securities.

''(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of the enactment of the Gramm-Leach-Bliley Act, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

''(G) Engaging, in the United States, in any activity that—

''(i) a bank holding company may engage in outside of the United States; and

''(ii) the Board has determined, under regulations prescribed or interpretations issued pursuant to subsection (c)(13) (as in effect on the day before the date of the enactment of the Gramm-Leach-Bliley Act) to be usual in connection with the transaction of banking or other financial operations abroad.

''(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls), or otherwise, shares, assets, or ownership interests (including debt or equity securities, partnership interests, trust certificates, or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by—

(I) a securities affiliate or an affiliate thereof; or

(II) an affiliate of an insurance company described in subparagraph (I)(ii) that provides investment advice to an insurance company and is registered pursuant to the Investment Advisers Act of 1940, or an affiliate of such investment adviser;

as part of a bona fide underwriting or merchant or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

''(iii) such shares, assets, or ownership interests are held for a period of time to enable the sale or disposition thereof on a reasonable basis consistent with the financial viability of the activities described in clause (ii); and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not routinely manage or operate such company or entity except as may be necessary or required to obtain a reasonable return on investment upon resale or disposition.

''(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property

and casualty insurance (other than credit-related insurance) or providing and issuing annuities;

''(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not routinely manage or operate such company except as may be necessary or required to obtain a reasonable return on investment.

''(5) ACTIONS REQUIRED.—

''(A) IN GENERAL.—The Board shall, by regulation or order, define, consistent with the purposes of this Act, the activities described in subparagraph (B) as financial in nature, and the extent to which such activities are financial in nature or incidental to a financial activity.

''(B) ACTIVITIES.—The activities described in this subparagraph are as follows:

''(i) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(ii) Providing any device or other instrumentality for transferring money or other financial assets.

''(iii) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(6) REQUIRED NOTIFICATION.—

''(A) IN GENERAL.—A financial holding company that acquires any company or commences any activity pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired not later than 30 calendar days after commencing the activity or consummating the acquisition, as the case may be.

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in subsection (j) with regard to the acquisition of a savings association, a financial holding company may commence any activity, or acquire any company, pursuant to paragraph (4) or any regulation prescribed or order issued under paragraph (5), without prior approval of the Board.

''(7) MERCHANT BANKING ACTIVITIES.—

''(A) JOINT REGULATIONS.—The Board and the Secretary of the Treasury may issue such regulations implementing paragraph (4)(H), including limitations on transactions between depository institutions and companies controlled pursuant to such paragraph, as the Board and the Secretary jointly deem appropriate to assure compliance with the purposes and prevent evasions of this Act and the Gramm-Leach-Bliley Act and to protect depository institutions.

''(B) SUNSET OF RESTRICTIONS ON MERCHANT BANKING ACTIVITIES OF FINANCIAL SUBSIDIARIES.—The restrictions contained in paragraph (4)(H) on the ownership and control of shares, assets, or ownership interests by or on behalf of a subsidiary of a depository institution shall not apply to a financial subsidiary (as defined in section 5136A of the Revised Statutes of the United States) of a bank, if the Board and the Secretary of the Treasury jointly authorize financial subsidiaries of banks to engage in merchant banking activities pursuant to section 122 of the Gramm-Leach-Bliley Act.

''(l) CONDITIONS FOR ENGAGING IN EXPANDED FINANCIAL ACTIVITIES.—

''(1) IN GENERAL.—Notwithstanding subsection (k), (n), or (o), a bank holding company may not engage in any activity, or directly or indirectly acquire or retain shares of any company engaged in any activity, under subsection (k), (n), or (o), other than activities permissible for any bank holding company under subsection (c)(8), unless—

''(A) all of the depository institution subsidiaries of the bank holding company are well capitalized;

''(B) all of the depository institution subsidiaries of the bank holding company are well managed; and

''(C) the bank holding company has filed with the Board—

''(i) a declaration that the company elects to be a financial holding company to engage in activities or acquire and retain shares of a company that were not permissible for a bank holding company to engage in or acquire before the enactment of the Gramm-Leach-Bliley Act; and

''(ii) a certification that the company meets the requirements of subparagraphs (A) and (B).

''(2) CRA REQUIREMENT.—Notwithstanding subsection (k) or (n) of this section, section 5136A(a) of the Revised Statutes of the United States, or section 46(a) of the Federal Deposit Insurance Act, the appropriate Federal banking agency shall prohibit a financial holding company or any insured depository institution from—

''(A) commencing any new activity under subsection (k) or (n) of this section, section 5136A(a) of the Revised Statutes of the United States, or section 46(a) of the Federal Deposit Insurance Act; or

''(B) directly or indirectly acquiring control of a company engaged in any activity under subsection (k) or (n) of this section, section 5136A(a) of the Revised Statutes of the United States, or section 46(a) of the Federal Deposit Insurance Act (other than an investment made pursuant to subparagraph (H) or (I) of subsection (k)(4), or section 122 of the Gramm-Leach-Bliley Act, or under section 46(a) of the Federal Deposit Insurance Act by reason of such section 122, by an affiliate already engaged in activities under any such provision);

if any insured depository institution subsidiary of such financial holding company, or the insured depository institution or any of its insured depository institution affiliates, has received in its most recent examination under the Community Reinvestment Act of 1977, a rating of less than 'satisfactory record of meeting community credit needs'.

''(3) FOREIGN BANKS.—For purposes of paragraph (1), the Board shall apply comparable capital and management standards to a foreign bank that operates a branch or agency or owns or controls a commercial lending company in the United States, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(m) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—If the Board finds that—

''(A) a financial holding company is engaged, directly or indirectly, in any activity under subsection (k), (n), or (o), other than activities that are permissible for a bank holding company under subsection (c)(8); and

''(B) such financial holding company is not in compliance with the requirements of subsection (l)(1);

the Board shall give notice to the financial holding company to that effect, describing the conditions giving rise to the notice.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Not later than 45 days after the date of receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the financial holding company shall execute an agreement with the Board to comply with the requirements applicable to a financial holding company under subsection (l)(1).

''(3) BOARD MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected, the Board may impose such limitations on the conduct or activities of that financial holding company or any affiliate of that company as the Board determines to be appropriate under the circumstances and consistent with the purposes of this Act.

''(4) FAILURE TO CORRECT.—If the conditions described in a notice to a financial holding company under paragraph (1) are not corrected within 180 days after the date of receipt by the financial holding company of a notice under paragraph (1), the Board may require such financial holding company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the discretion of the Board, either—

''(A) to divest control of any subsidiary depository institution; or

''(B) at the election of the financial holding company instead to cease to engage in any activity conducted by such financial holding company or its subsidiaries (other than a depository institution or a subsidiary of a depository institution) that is not an activity that is permissible for a bank holding company under subsection (c)(8).

''(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies and authorities.

''(n) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Gramm-Leach-Bliley Act may continue to engage in any activity and retain direct or indirect ownership or control of shares of a company engaged in any activity if—

''(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1999;

''(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

''(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1999, and other activities permissible under this Act.

''(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if the annual gross revenues derived by the holding company and all subsidiaries of the holding company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to a financial activity under subsection (k) represent at least 85 percent of the consolidated annual gross revenues of the company.

''(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company that is engaged in any activity that the Board has not determined to be financial in nature or incidental to a financial activity under subsection (k), except this paragraph shall not apply with respect to a company that owns a broadcasting station licensed under title III of the Communications Act of 1934 and the shares of which are under common control with an insurance company since January 1, 1998, unless such company is acquired by, or otherwise becomes an affiliate of, a bank holding company that, at the time such acquisition or affiliation is consummated, is 1 of the 5 largest domestic bank holding companies (as determined on the basis of the consolidated total assets of such companies).

''(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all

such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company (excluding revenues derived from subsidiary depository institutions).

''(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—

''(A) IN GENERAL.—A depository institution controlled by a financial holding company shall not—

''(i) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection or subparagraph (H) or (I) of subsection (k)(4); or

''(ii) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in clause (i).

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as prohibiting an arrangement between a depository institution and a company owned or controlled pursuant to subsection (k)(4)(I) for the marketing of products or services through statement inserts or Internet websites if—

''(i) such arrangement does not violate section 106 of the Bank Holding Company Act Amendments of 1970; and

''(ii) the Board determines that the arrangement is in the public interest, does not undermine the separation of banking and commerce, and is consistent with the safety and soundness of depository institutions.

''(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—A depository institution controlled by a financial holding company may not engage in a covered transaction (as defined in section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to this subsection.

''(7) SUNSET OF GRANDFATHER.—A financial holding company engaged in any activity, or retaining direct or indirect ownership or control of shares of a company, pursuant to this subsection, shall terminate such activity and divest ownership or control of the shares of such company before the end of the 10-year period beginning on the date of the enactment of the Gramm-Leach-Bliley Act. The Board may, upon application by a financial holding company, extend such 10-year period by a period not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

''(o) REGULATION OF CERTAIN FINANCIAL HOLDING COMPANIES.—Notwithstanding subsection (a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of enactment of the Gramm-Leach-Bliley Act, may continue to engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of September 30, 1997, if—

''(1) the holding company, or any subsidiary of the holding company, lawfully was engaged, directly or indirectly, in any of such activities as of September 30, 1997, in the United States;

''(2) the attributed aggregate consolidated assets of the company held by the holding company pursuant to this subsection, and not otherwise permitted to be held by a financial holding company, are equal to not more than 5 percent of the total consolidated assets of the bank holding company, except that the Board may increase that percentage by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act; and

''(3) the holding company does not permit—

''(A) any company, the shares of which it owns or controls pursuant to this subsection, to offer or market any product or service of an affiliated depository institution; or

''(B) any affiliated depository institution to offer or market any product or service of any company, the shares of which are owned or controlled by such holding company pursuant to this subsection.''.

(b) COMMUNITY REINVESTMENT REQUIREMENT.—Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended by adding at the end the following new subsection:

''(c) FINANCIAL HOLDING COMPANY REQUIREMENT.—

''(1) IN GENERAL.—An election by a bank holding company to become a financial holding company under section 4 of the Bank Holding Company Act of 1956 shall not be effective if—

''(A) the Board finds that, as of the date the declaration of such election and the certification is filed by such holding company under section 4(l)(1)(C) of the Bank Holding Company Act of 1956, not all of the subsidiary insured depository institutions of the bank holding company had achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

''(B) the Board notifies the company of such finding before the end of the 30-day period beginning on such date.

''(2) LIMITED EXCLUSIONS FOR NEWLY ACQUIRED INSURED DEPOSITORY INSTITUTIONS.—Any insured depository institution acquired by a bank holding company during the 12-month period preceding the date of the submission to the Board of the declaration and certification under section 4(l)(1)(C) of the Bank Holding Company Act of 1956 may be excluded for purposes of paragraph (1) during the 12-month period beginning on the date of such acquisition if—

''(A) the bank holding company has submitted an affirmative plan to the appropriate Federal financial supervisory agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution; and

''(B) the plan has been accepted by such agency.

''(3) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) BANK HOLDING COMPANY; FINANCIAL HOLDING COMPANY.—The terms 'bank holding company' and 'financial holding company' have the meanings given those terms in section 2 of the Bank Holding Company Act of 1956.

''(B) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(C) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(A) in subsection (n), by inserting '''depository institution','' after ''the terms''; and

(B) by adding at the end the following new subsections:

''(p) FINANCIAL HOLDING COMPANY.—For purposes of this Act, the term 'financial holding company' means a bank holding company that meets the requirements of section 4(l)(1).

''(q) INSURANCE COMPANY.—For purposes of sections 4 and 5, the term 'insurance company' includes any person engaged in the business of insurance to the extent of such activities.''.

(2) NOTICE PROCEDURES.—Section 4(j) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)) is amended—

(A) in each of subparagraphs (A) and (E) of paragraph (1), by inserting ''or in any complementary activity under subsection (k)(1)(B)'' after ''subsection (c)(8) or (a)(2)''; and

(B) in paragraph (3)—

(i) by inserting '', other than any complementary activity under subsection (k)(1)(B),'' after ''to engage in any activity''; and

(ii) by inserting ''or a company engaged in any complementary activity under subsection (k)(1)(B)'' after ''insured depository institution''.

(d) REPORT.—

(1) IN GENERAL.—By the end of the 4-year period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall submit a joint report to the Congress containing a summary of new activities, including grandfathered commercial activities, in which any financial holding company is engaged pursuant to subsection (k)(1) or (n) of section 4 of the Bank Holding Company Act of 1956 (as added by subsection (a)).

(2) OTHER CONTENTS.—The report submitted to the Congress pursuant to paragraph (1) shall also contain the following:

(A) A discussion of actions by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, whether by regulation, order, interpretation, or guideline or by approval or disapproval of an application, with regard to activities of financial holding companies that are incidental to activities that are financial in nature or complementary to such financial activities.

(B) An analysis and discussion of the risks posed by commercial activities of financial holding companies to the safety and soundness of affiliate depository institutions.

(C) An analysis and discussion of the effect of mergers and acquisitions under section 4(k) of the Bank Holding Company Act of 1956 on market concentration in the financial services industry.

SEC. 104. OPERATION OF STATE LAW.

(a) STATE REGULATION OF THE BUSINESS OF INSURANCE.—The Act entitled ''An Act to express the intent of Congress with reference to the regulation of the business of insurance'' and approved March 9, 1945 (15 U.S.C. 1011 et seq.) (commonly referred to as the ''McCarran-Ferguson Act'') remains the law of the United States.

(b) MANDATORY INSURANCE LICENSING REQUIREMENTS.—No person shall engage in the business of insurance in a State as principal or agent unless such person is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to subsections (c), (d), and (e).

(c) AFFILIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict a depository institution, or an affiliate thereof, from being affiliated directly or indirectly or associated with any person, as authorized or permitted by this Act or any other provision of Federal law.

(2) INSURANCE.—With respect to affiliations between depository institutions, or any affiliate thereof, and any insurer, paragraph (1) does not prohibit—

(A) any State from—

(i) collecting, reviewing, and taking actions (including approval and disapproval) on applications and other documents or reports concerning any proposed acquisition of, or a change or continuation of control of, an insurer domiciled in that State; and

(ii) exercising authority granted under applicable State law to collect information concerning any proposed acquisition of, or a change or continuation of control of, an insurer engaged in the business of insurance in, and regulated as an insurer by, such State;

during the 60-day period preceding the effective date of the acquisition or change or continuation of control, so long as the collecting, reviewing, taking actions, or exercising authority by the State does not have the effect of discriminating, intentionally or unintentionally, against a depository institution or an affiliate

thereof, or against any other person based upon an association of such person with a depository institution;

(B) any State from requiring any person that is acquiring control of an insurer domiciled in that State to maintain or restore the capital requirements of that insurer to the level required under the capital regulations of general applicability in that State to avoid the requirement of preparing and filing with the insurance regulatory authority of that State a plan to increase the capital of the insurer, except that any determination by the State insurance regulatory authority with respect to such requirement shall be made not later than 60 days after the date of notification under subparagraph (A); or

(C) any State from restricting a change in the ownership of stock in an insurer, or a company formed for the purpose of controlling such insurer, after the conversion of the insurer from mutual to stock form so long as such restriction does not have the effect of discriminating, intentionally or unintentionally, against a depository institution or an affiliate thereof, or against any other person based upon an association of such person with a depository institution.

(d) ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (3), and except with respect to insurance sales, solicitation, and cross marketing activities, which shall be governed by paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict a depository institution or an affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with an affiliate, or any other person, in any activity authorized or permitted under this Act and the amendments made by this Act.

(2) INSURANCE SALES.—

(A) IN GENERAL.—In accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in Barnett Bank of Marion County N.A. v. Nelson, 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of a depository institution, or an affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with an affiliate or any other person, in any insurance sales, solicitation, or cross-marketing activity.

(B) CERTAIN STATE LAWS PRESERVED.—Notwithstanding subparagraph (A), a State may impose any of the following restrictions, or restrictions that are substantially the same as but no more burdensome or restrictive than those in each of the following clauses:

(i) Restrictions prohibiting the rejection of an insurance policy by a depository institution or an affiliate of a depository institution, solely because the policy has been issued or underwritten by any person who is not associated with such depository institution or affiliate when the insurance is required in connection with a loan or extension of credit.

(ii) Restrictions prohibiting a requirement for any debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product by an depository institution, or any affiliate of a depository institution, unless such charge would be required when the depository institution or affiliate is the licensed insurance agent or broker providing the insurance.

(iii) Restrictions prohibiting the use of any advertisement or other insurance promotional material by a depository institution or any affiliate of a depository institution that would cause a reasonable person to believe mistakenly that—

(I) the Federal Government or a State is responsible for the insurance sales activities of, or stands behind the credit of, the institution or affiliate; or

(II) a State, or the Federal Government guarantees any returns on insurance products, or is a source of payment on any insurance obligation of or sold by the institution or affiliate;

(iv) Restrictions prohibiting the payment or receipt of any commission or brokerage fee or other valuable consideration for services as an insurance agent or broker to or by any person, unless such person holds a valid State license regarding the applicable class of insurance at the time at which the services are performed, except that, in this clause, the term ''services as an insurance agent or broker'' does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.

(v) Restrictions prohibiting any compensation paid to or received by any individual who is not licensed to sell insurance, for the referral of a customer that seeks to purchase, or seeks an opinion or advice on, any insurance product to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer.

(vi) Restrictions prohibiting the release of the insurance information of a customer (defined as information concerning the premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and insurance claims of a customer contained in the records of the depository institution or an affiliate thereof) to any person other than an officer, director, employee, agent, or affiliate of a depository institution, for the purpose of soliciting or selling insurance, without the express consent of the customer, other than a provision that prohibits—

(I) a transfer of insurance information to an unaffiliated insurer in connection with transferring insurance in force on existing insureds of the depository institution or an affiliate thereof, or in connection with a merger with or acquisition of an unaffiliated insurer; or

(II) the release of information as otherwise authorized by State or Federal law.

(vii) Restrictions prohibiting the use of health information obtained from the insurance records of a customer for any purpose, other than for its activities as a licensed agent or broker, without the express consent of the customer.

(viii) Restrictions prohibiting the extension of credit or any product or service that is equivalent to an extension of credit, lease or sale of property of any kind, or furnishing of any services or fixing or varying the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from a depository institution or an affiliate of a depository institution, or a particular insurer, agent, or broker, other than a prohibition that would prevent any such depository institution or affiliate—

(I) from engaging in any activity described in this clause that would not violate section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System; or

(II) from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the depository institution or an affiliate of the depository institution.

(ix) Restrictions requiring, when an application by a consumer for a loan or other extension of credit from a depository institution is pending, and insurance is offered or sold to the consumer or is required in connection with the loan or extension of credit by the depository institution or any affiliate thereof, that a written disclosure be provided to the consumer or prospective customer indicating that the customer's choice of an insurance provider will not affect the credit decision or credit terms in any way, except that the depository institution may impose reasonable requirements concerning the creditworthiness of the insurer and scope of coverage chosen.

(x) Restrictions requiring clear and conspicuous disclosure, in writing, where practicable, to the customer prior to the sale of any insurance policy that such policy—

(I) is not a deposit;

(II) is not insured by the Federal Deposit Insurance Corporation;

(III) is not guaranteed by any depository institution or, if appropriate, an affiliate of any such institution or any person soliciting the purchase of or selling insurance on the premises thereof; and

(IV) where appropriate, involves investment risk, including potential loss of principal.

(xi) Restrictions requiring that, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from a depository institution, or any affiliate of such institution, or any person soliciting the purchase of or selling insurance on the premises thereof, the credit and insurance transactions be completed through separate documents.

(xii) Restrictions prohibiting, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from a depository institution or an affiliate of such institution, or any person soliciting the purchase of or selling insurance on the premises thereof, inclusion of the expense of insurance premiums in the primary credit transaction without the express written consent of the customer.

(xiii) Restrictions requiring maintenance of separate and distinct books and records relating to insurance transactions, including all files relating to and reflecting consumer complaints, and requiring that such insurance books and records be made available to the appropriate State insurance regulator for inspection upon reasonable notice.

(C) LIMITATIONS.—

(i) OCC DEFERENCE.—Section 304(e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed—

(I) to limit the applicability of the decision of the Supreme Court in Barnett Bank of Marion County N.A. v. Nelson, 517 U.S. 25 (1996) with respect to any State statute, regulation, order, interpretation, or other action that is not referred to or described in subparagraph (B); or

(II) to create any inference with respect to any State statute, regulation, order, interpretation, or other action that is not described in this paragraph.

(3) INSURANCE ACTIVITIES OTHER THAN SALES.—State statutes, regulations, interpretations, orders, and other actions shall not be preempted under paragraph (1) to the extent that they—

(A) relate to, or are issued, adopted, or enacted for the purpose of regulating the business of insurance in accordance with the Act entitled ''An Act to express the intent of Congress with reference to the regulation of the business of insurance'' and approved March 9, 1945 (15 U.S.C. 1011 et seq.) (commonly referred to as the ''McCarran-Ferguson Act'');

(B) apply only to persons that are not depository institutions, but that are directly engaged in the business of insurance (except that they may apply to depository institutions engaged in providing savings bank life insurance as principal to the extent of regulating such insurance);

(C) do not relate to or directly or indirectly regulate insurance sales, solicitations, or cross marketing activities; and

(D) are not prohibited under subsection (e).

(4) FINANCIAL ACTIVITIES OTHER THAN INSURANCE.—No State statute, regulation, order, interpretation, or other action shall be preempted under paragraph (1) to the extent that—

(A) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, insurance sales, solicitations, or cross marketing activities covered under paragraph (2);

(B) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, the business of insurance activities other than sales, solicitations, or cross marketing activities, covered under paragraph (3);

(C) it does not relate to securities investigations or enforcement actions referred to in subsection (f); and

(D) it—

(i) does not distinguish by its terms between depository institutions, and affiliates thereof, engaged in the activity at issue and other persons engaged in the same activity in a manner that is in any way adverse with respect to the conduct of the activity by any such depository institution or affiliate engaged in the activity at issue;

(ii) as interpreted or applied, does not have, and will not have, an impact on depository institutions, or affiliates thereof, engaged in the activity at issue, or any person who has an association with any such depository institution or affiliate, that is substantially more adverse than its impact on other persons engaged in the same activity that are not depository institutions or affiliates thereof, or persons who do not have an association with any such depository institution or affiliate;

(iii) does not effectively prevent a depository institution or affiliate thereof from engaging in activities authorized or permitted by this Act or any other provision of Federal law; and

(iv) does not conflict with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law.

(e) NONDISCRIMINATION.—Except as provided in any restrictions described in subsection (d)(2)(B), no State may, by statute, regulation, order, interpretation, or other action, regulate the insurance activities authorized or permitted under this Act or any other provision of Federal law of a depository institution, or affiliate thereof, to the extent that such statute, regulation, order, interpretation, or other action—

(1) distinguishes by its terms between depository institutions, or affiliates thereof, and other persons engaged in such activities, in a manner that is in any way adverse to any such depository institution, or affiliate thereof;

(2) as interpreted or applied, has or will have an impact on depository institutions, or affiliates thereof, that is substantially more adverse than its impact on other persons providing the same products or services or engaged in the same activities that are not depository institutions, or affiliates thereof, or persons or entities affiliated therewith;

(3) effectively prevents a depository institution, or affiliate thereof, from engaging in insurance activities authorized or permitted by this Act or any other provision of Federal law; or

(4) conflicts with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law between depository institutions, or affiliates thereof, and persons engaged in the business of insurance.

(f) LIMITATION.—Subsections (c) and (d) shall not be construed to affect—

(1) the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of such State—

(A) to investigate and bring enforcement actions, consistent with section 18(c) of the Securities Act of 1933, with respect to fraud or deceit or unlawful conduct by any person, in connection with securities or securities transactions; or

(B) to require the registration of securities or the licensure or registration of brokers, dealers, or investment advisers (consistent with section 203A of the Investment Advisers Act of 1940), or the associated persons of a broker, dealer, or investment adviser (consistent with such section 203A); or

(2) State laws, regulations, orders, interpretations, or other actions of general applicability relating to the governance of corporations, partnerships, limited liability companies, or other business associations incorporated or formed under the laws of that State or domiciled in that State, or the applicability of the antitrust laws of any State or any State law that is similar to the antitrust laws if such laws, regulations, orders, interpretations, or other actions are not inconsistent with the purposes of this Act to authorize or permit certain affiliations and to remove barriers to such affiliations.

(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(2) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given the term in subsection (a) of the first section of the Clayton Act, and includes section 5 of the Federal Trade Commission Act (to the extent that such section 5 relates to unfair methods of competition).

(3) DEPOSITORY INSTITUTION.—The term ''depository institution''—

(A) has the meaning given the term in section 3 of the Federal Deposit Insurance Act; and

(B) includes any foreign bank that maintains a branch, agency, or commercial lending company in the United States.

(4) INSURER.—The term ''insurer'' means any person engaged in the business of insurance.

(5) STATE.—The term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

''(2) REGULATIONS.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.''.

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting ''and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 107. CROSS MARKETING RESTRICTION; LIMITED PURPOSE BANK RELIEF; DIVESTITURE.

(a) CROSS MARKETING RESTRICTION.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by striking paragraph (3).

(b) DAYLIGHT OVERDRAFTS.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by inserting after paragraph (2) the following new paragraph:

''(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(C), an overdraft is described in this paragraph if—

''(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate;

''(B) such overdraft—

''(i) is permitted or incurred on behalf of an affiliate that is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

''(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations that are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system; or

''(C) such overdraft—

''(i) is permitted or incurred by, or on behalf of, an affiliate in connection with an activity that is financial in nature or incidental to a financial activity; and

''(ii) does not cause the bank to violate any provision of section 23A or 23B of the Federal Reserve Act, either directly, in the case of a bank that is a member of the Federal Reserve System, or by virtue of section 18(j) of the Federal Deposit Insurance Act, in the case of a bank that is not a member of the Federal Reserve System.''.

(c) INDUSTRIAL LOAN COMPANIES; AFFILIATE OVERDRAFTS.—Section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)) is amended by inserting '', or that is otherwise permissible for a bank controlled by a company described in section 4(f)(1)'' before the period at the end.

(d) ACTIVITIES LIMITATIONS.—Section 4(f)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)) is amended—

(1) by striking ''Paragraph (1) shall cease to apply to any company described in such paragraph if—'' and inserting ''Subject to paragraph (3), a company described in paragraph (1) shall no longer qualify for the exemption provided under that paragraph if—'';

(2) in subparagraph (A)—

(A) in clause (ii)(IX), by striking ''and'' at the end;

(B) in clause (ii)(X), by inserting ''and'' after the semicolon;

(C) in clause (ii), by inserting after subclause (X) the following new subclause:

''(XI) assets that are derived from, or incidental to, activities in which institutions described in subparagraph (F) or (H) of section 2(c)(2) are permitted to engage;''; and

(D) by striking ''or'' at the end; and

(3) by striking subparagraph (B) and inserting the following:

''(B) any bank subsidiary of such company—

''(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

''(ii) engages in the business of making commercial loans (except that, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

''(C) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in the account of the bank at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).''.

(e) DIVESTITURE REQUIREMENT.—Section 4(f)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(4)) is amended to read as follows:

''(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under paragraph (1) by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date on which the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless, before the end of such 180-day period, the company has—

''(A) either—

''(i) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; or

''(ii) submitted a plan to the Board for approval to cease the activity or correct the condition in a timely manner (which shall not exceed 1 year); and

''(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.''.

(f) FOREIGN BANK SUBSIDIARIES OF LIMITED PURPOSE CREDIT CARD BANKS.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following new paragraph:

''(14) FOREIGN BANK SUBSIDIARIES OF LIMITED PURPOSE CREDIT CARD BANKS.—

''(A) IN GENERAL.—An institution described in section 2(c)(2)(F) may control a foreign bank if—

''(i) the investment of the institution in the foreign bank meets the requirements of section 25 or 25A of the Federal Reserve Act and the foreign bank qualifies under such sections;

''(ii) the foreign bank does not offer any products or services in the United States; and

''(iii) the activities of the foreign bank are permissible under otherwise applicable law.

''(B) OTHER LIMITATIONS INAPPLICABLE.—The limitations contained in any clause of section 2(c)(2)(F) shall not apply to a foreign bank described in subparagraph (A) that is controlled by an institution described in such section.''.

SEC. 108. USE OF SUBORDINATED DEBT TO PROTECT FINANCIAL SYSTEM AND DEPOSIT FUNDS FROM ''TOO BIG TO FAIL'' INSTITUTIONS.

(a) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall conduct a study of—

(1) the feasibility and appropriateness of establishing a requirement that, with respect to large insured depository institutions and depository institution holding companies the failure of which could have serious adverse effects on economic conditions or financial stability, such institutions and holding companies maintain some portion of their capital in the form of subordinated debt in order to bring market forces and market discipline to bear on the operation of, and the assessment of the viability of, such institutions and companies and reduce the risk to economic conditions, financial stability, and any deposit insurance fund;

(2) if such requirement is feasible and appropriate, the appropriate amount or percentage of capital that should be subordinated debt consistent with such purposes; and

(3) the manner in which any such requirement could be incorporated into existing capital standards and other issues relating to the transition to such a requirement.

(b) REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall submit a report to the Congress containing the findings and conclusions of the Board and the Secretary in connection with the study required under subsection (a), together with such legislative and administrative proposals as the Board and the Secretary may determine to be appropriate.

(c) DEFINITIONS.—For purposes of subsection (a), the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the meaning given the term in section 2 of the Bank Holding Company Act of 1956.

(2) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act.

(3) SUBORDINATED DEBT.—The term ''subordinated debt'' means unsecured debt that—

(A) has an original weighted average maturity of not less than 5 years;

(B) is subordinated as to payment of principal and interest to all other indebtedness of the bank, including deposits;

(C) is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

(D) is not held in whole or in part by any affiliate or institution-affiliated party of the insured depository institution or bank holding company.

SEC. 109. STUDY OF FINANCIAL MODERNIZATION'S EFFECT ON THE ACCESSIBILITY OF SMALL BUSINESS AND FARM LOANS.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act), shall conduct a study of the extent to which credit is being provided to and for small businesses and farms, as a result of this Act and the amendments made by this Act.

(b) REPORT.—Before the end of the 5-year period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Federal banking agencies, shall submit a report to the Congress on the study conducted pursuant to subsection (a) and shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action.

Subtitle B—Streamlining Supervision of Bank Holding Companies

SEC. 111. STREAMLINING BANK HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

''(c) REPORTS AND EXAMINATIONS.—

''(1) REPORTS.—

''(A) IN GENERAL.—The Board, from time to time, may require a bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the bank holding company; and

''(ii) compliance by the company or subsidiary with applicable provisions of this Act or any other Federal law that the Board has specific jurisdiction to enforce against such company or subsidiary.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—For purposes of compliance with this paragraph, the Board shall, to the fullest extent possible, accept—

''(I) reports that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal or State supervisors or to appropriate self-regulatory organizations;

''(II) information that is otherwise required to be reported publicly; and

''(III) externally audited financial statements.

''(ii) AVAILABILITY.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(iii) REPORTS FILED WITH OTHER AGENCIES.—

''(I) IN GENERAL.—In the event that the Board requires a report under this subsection from a functionally regulated subsidiary of a bank holding company of a kind that is not required by another Federal or State regulatory authority or an appropriate self-regulatory organization, the Board shall first request that the appropriate regulatory authority or self-regulatory organization obtain such report.

''(II) AVAILABILITY FROM OTHER SUBSIDIARY.—If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or any of its depository institution subsidiaries or compliance with this Act or any other Federal law that the Board has specific jurisdiction to enforce against such company or subsidiary or the systems described in paragraph (2)(A)(ii)(II), the Board may require such functionally regulated subsidiary to provide such a report to the Board.

''(2) EXAMINATIONS.—

''(A) EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (B), the Board may make examinations of each bank holding company and each subsidiary of such holding company in order—

''(i) to inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

''(ii) to inform the Board of—

''(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any depository institution subsidiary of such holding company; and

''(II) the systems for monitoring and controlling such risks; and

''(iii) to monitor compliance with the provisions of this Act or any other Federal law that the Board has specific jurisdiction to enforce against such company or subsidiary and those governing transactions and relationships between any depository institution subsidiary and its affiliates.

''(B) FUNCTIONALLY REGULATED SUBSIDIARIES.—Notwithstanding subparagraph (A), the Board may make examinations of a functionally regulated subsidiary of a bank holding company only if—

''(i) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution;

''(ii) the Board reasonably determines, after reviewing relevant reports, that examination of the subsidiary is necessary to adequately inform the Board of the systems described in subparagraph (A)(ii)(II); or

''(iii) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or any other Federal law that the Board has specific jurisdiction to enforce against such subsidiary, including provisions relating to transactions with an affiliated depository institution, and the Board cannot make such determination through examination of the affiliated depository institution or the bank holding company.

''(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

''(i) the bank holding company; and

''(ii) any subsidiary of the bank holding company that could have a materially adverse effect on the safety and soundness of any depository institution subsidiary of the holding company due to—

''(I) the size, condition, or activities of the subsidiary; or

''(II) the nature or size of transactions between the subsidiary and any depository institution that is also a subsidiary of the bank holding company.

''(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, for the purposes of this paragraph, use the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

''(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, forego an examination by the Board under this paragraph and instead review the reports of examination made of—

''(i) any registered broker or dealer by or on behalf of the Securities and Exchange Commission;

''(ii) any registered investment adviser properly registered by or on behalf of either the Securities and Exchange Commission or any State;

''(iii) any licensed insurance company by or on behalf of any State regulatory authority responsible for the supervision of insurance companies; and

''(iv) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

''(3) CAPITAL.—

''(A) IN GENERAL.—The Board may not, by regulation, guideline, order, or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any functionally regulated subsidiary of a bank holding company that—

''(i) is not a depository institution; and

''(ii) is—

''(I) in compliance with the applicable capital requirements of its Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority;

''(II) properly registered as an investment adviser under the Investment Advisers Act of 1940, or with any State; or

''(III) is licensed as an insurance agent with the appropriate State insurance authority.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to—

''(i) activities of a registered investment adviser other than with respect to investment advisory activities or activities incidental to investment advisory activities; or

''(ii) activities of a licensed insurance agent other than insurance agency activities or activities incidental to insurance agency activities.

''(C) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing bank holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board may not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

''(i) a bank holding company; or

''(ii) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(4) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—

''(A) SECURITIES ACTIVITIES.—Securities activities conducted in a functionally regulated subsidiary of a depository institution shall be subject to regulation by the Securities and Exchange Commission, and by relevant State securities authorities, as appropriate, subject to section 104 of the Gramm-Leach-Bliley Act, to the same extent as if they were conducted in a nondepository institution subsidiary of a bank holding company.

''(B) INSURANCE ACTIVITIES.—Subject to section 104 of the Gramm-Leach-Bliley Act, insurance agency and brokerage activities and activities as principal conducted in a functionally regulated subsidiary of a depository institution shall be subject to regulation by a State insurance authority to the same extent as if they were conducted in a nondepository institution subsidiary of a bank holding company.

''(5) DEFINITION.—For purposes of this subsection, the term 'functionally regulated subsidiary' means any company—

''(A) that is not a bank holding company or a depository institution; and

''(B) that is—

''(i) a broker or dealer that is registered under the Securities Exchange Act of 1934;

''(ii) a registered investment adviser, properly registered by or on behalf of either the Securities and Exchange Commission or any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(iii) an investment company that is registered under the Investment Company Act of 1940;

''(iv) an insurance company, with respect to insurance activities of the insurance company and activities incidental to such insurance activities, that is subject to supervision by a State insurance regulator; or

''(v) an entity that is subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.''.

SEC. 112. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

(a) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board that requires a bank holding company to provide funds or other assets to a subsidiary depository institution shall not be effective nor enforceable with respect to an entity described in subparagraph (A) if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; or

''(ii) an affiliate of the depository institution that is an insurance company or a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker, dealer, investment adviser (solely with respect to investment advisory activities or activities incidental thereto), or investment company, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment company, or investment adviser, as the case may be.

''(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, that is an insurance company or a broker, dealer, investment company, or investment adviser described in paragraph (1)(A) to provide funds or assets to a depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be, of such requirement.

''(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in that paragraph, the Board may order the bank holding company to divest the depository institution not later than 180 days after receiving the notice, or such longer period as the Board determines consistent with the safe and sound operation of the depository institution.

''(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the depository institution, including restricting or prohibiting transactions between the depository institution and any affiliate of the institution, as are appropriate under the circumstances.

''(5) RULE OF CONSTRUCTION.—No provision of this subsection may be construed as limiting or otherwise affecting, except to the extent specifically provided in this subsection, the regulatory authority, including the scope of the authority, of any Federal agency or department with regard to any entity that is within the jurisdiction of such agency or department.''.

(b) SUBSIDIARIES OF DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

''SEC. 45. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of—

''(1) section 5(c) of the Bank Holding Company Act of 1956 that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on holding companies and their functionally regulated subsidiaries or that require deference to other regulators;

''(2) section 5(g) of the Bank Holding Company Act of 1956 that limit the authority of the Board to require a functionally regulated subsidiary of a holding company to provide capital or other funds or assets to a depository institution subsidiary of the holding company and to take certain actions including requiring divestiture of the depository institution; and

''(3) section 10A of the Bank Holding Company Act of 1956 that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to holding companies and their functionally regulated subsidiaries;

shall also limit whatever authority that a Federal banking agency might otherwise have under any statute or regulation to require reports, make examinations, impose capital requirements, or take any other direct or indirect action with respect to any functionally regulated affiliate of a depository institution, subject to the same standards and requirements as are applicable to the Board under those provisions.

''(b) CERTAIN EXEMPTION AUTHORIZED.—No provision of this section shall be construed as preventing the Corporation, if the Corporation finds it necessary to determine the condition of a depository institution for insurance purposes, from examining an affiliate of any depository institution, pursuant to section 10(b)(4), as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) FUNCTIONALLY REGULATED SUBSIDIARY.—The term 'functionally regulated subsidiary' has the meaning given the term in section 5(c)(5) of the Bank Holding Company Act of 1956.

''(2) FUNCTIONALLY REGULATED AFFILIATE.—The term 'functionally regulated affiliate' means, with respect to any depository institution, any affiliate of such depository institution that is—

''(A) not a depository institution holding company; and

''(B) a company described in any clause of section 5(c)(5)(B) of the Bank Holding Company Act of 1956.''.

SEC. 113. ROLE OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

''SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

''(a) LIMITATION ON DIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a functionally regulated subsidiary of a bank holding company unless—

''(1) the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

''(A) the financial safety, soundness, or stability of an affiliated depository institution; or

''(B) the domestic or international payment system; and

''(2) the Board finds that it is not reasonably possible to protect effectively against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

''(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a bank holding company that requires the bank holding company to require a functionally regulated subsidiary of the holding company to engage, or to refrain from engaging, in any conduct or activities unless the Board could take such action directly against or with respect to the functionally regulated subsidiary in accordance with subsection (a).

''(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a) or (b), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a functionally regulated subsidiary of a bank holding company with any Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

''(d) FUNCTIONALLY REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'functionally regulated subsidiary' has the meaning given the term in section 5(c)(5).''.

SEC. 114. PRUDENTIAL SAFEGUARDS.

(a) COMPTROLLER OF THE CURRENCY.—

(1) IN GENERAL.—The Comptroller of the Currency may, by regulation or order, impose restrictions or requirements on relationships or transactions between a national bank and a subsidiary of the national bank that the Comptroller finds are—

(A) consistent with the purposes of this Act, title LXII of the Revised Statutes of the United States, and other Federal law applicable to national banks; and

(B) appropriate to avoid any significant risk to the safety and soundness of insured depository institutions or any Federal deposit insurance fund or other adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

(2) REVIEW.—The Comptroller of the Currency shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including the avoidance of any adverse effect referred to in paragraph (1)(B); and

(B) modify or eliminate any such restriction or requirement the Comptroller finds is no longer required for such purposes.

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System may, by regulation or order, impose restrictions or requirements on relationships or transactions—

(A) between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution); or

(B) between a State member bank and a subsidiary of such bank;

if the Board makes a finding described in paragraph (2) with respect to such restriction or requirement.

(2) FINDING.—The Board of Governors of the Federal Reserve System may exercise authority under paragraph (1) if the Board finds that the exercise of such authority is—

(A) consistent with the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies or State member banks, as the case may be; and

(B) appropriate to prevent an evasion of any provision of law referred to in subparagraph (A) or to avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund or other adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

(3) REVIEW.—The Board of Governors of the Federal Reserve System shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) or (4) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including the avoidance of any adverse effect referred to in paragraph (2)(B) or (4)(B); and

(B) modify or eliminate any such restriction or requirement the Board finds is no longer required for such purposes.

(4) FOREIGN BANKS.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate in the United States of such foreign bank that the Board finds are—

(A) consistent with the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to foreign banks and their affiliates in the United States; and

(B) appropriate to prevent an evasion of any provision of law referred to in subparagraph (A) or to avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund or other adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation may, by regulation or order, impose restrictions or requirements on relationships or transactions between a State nonmember bank (as defined in section 3 of the Federal Deposit Insurance Act) and a subsidiary of the State nonmember bank that the Corporation finds are—

(A) consistent with the purposes of this Act, the Federal Deposit Insurance Act, or other Federal law applicable to State nonmember banks; and

(B) appropriate to avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund or other adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

(2) REVIEW.—The Federal Deposit Insurance Corporation shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including the avoidance of any adverse effect referred to in paragraph (1)(B); and

(B) modify or eliminate any such restriction or requirement the Corporation finds is no longer required for such purposes.

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—Except as provided in subsection (c), a Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

(c) CERTAIN EXAMINATIONS AUTHORIZED.—Nothing in this section shall prevent the Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the insured depository institution and the affiliate, and the effect of such relationship on the insured depository institution.

(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the meaning given the term in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(3) CORPORATION.—The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(4) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the meaning given the term in section 3(z) of the Federal Deposit Insurance Act.

(5) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act.

(6) REGISTERED INVESTMENT COMPANY.—The term ''registered investment company'' means an investment company that is registered with the Commission under the Investment Company Act of 1940.

(7) SAVINGS AND LOAN HOLDING COMPANY.—The term ''savings and loan holding company'' has the meaning given the term in section 10(a)(1)(D) of the Home Owners' Loan Act.

SEC. 116. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding at the end the following new sentence: ''A declaration filed in accordance with section 4(l)(1)(C) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.''.

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking ''Financial Institutions Supervisory Act of 1966, order'' and inserting ''Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

''(A) order''; and

(2) by striking ''shareholders of the bank holding company. Such distribution'' and inserting ''shareholders of the bank holding company; or

''(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the primary supervisor for the bank, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

The distribution referred to in subparagraph (A)''.

SEC. 117. PRESERVING THE INTEGRITY OF FDIC RESOURCES.

Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking ''to benefit any shareholder of'' and inserting ''to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of''.

SEC. 118. REPEAL OF SAVINGS BANK PROVISIONS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

''(f) [Repealed].''.

SEC. 119. TECHNICAL AMENDMENT.

Section 2(o)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)(1)(A)) is amended by striking ''section 38(b)'' and inserting ''section 38''.

Subtitle C—Subsidiaries of National Banks

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS.

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136B; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

''SEC. 5136A. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

''(a) AUTHORIZATION TO CONDUCT IN SUBSIDIARIES CERTAIN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) IN GENERAL.—Subject to paragraph (2), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary.

''(2) CONDITIONS AND REQUIREMENTS.—A national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, only if—

''(A) the financial subsidiary engages only in—

''(i) activities that are financial in nature or incidental to a financial activity pursuant to subsection (b); and

''(ii) activities that are permitted for national banks to engage in directly (subject to the same terms and conditions that govern the conduct of the activities by a national bank);

''(B) the activities engaged in by the financial subsidiary as a principal do not include—

''(i) insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (except to the extent permitted under section 302 or 303(c) of the Gramm-Leach-Bliley Act) or providing or issuing annuities the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986;

''(ii) real estate development or real estate investment activities, unless otherwise expressly authorized by law; or

''(iii) any activity permitted in subparagraph (H) or (I) of section 4(k)(4) of the Bank Holding Company Act of 1956, except activities described in section 4(k)(4)(H) that may be permitted in accordance with section 122 of the Gramm-Leach-Bliley Act;

''(C) the national bank and each depository institution affiliate of the national bank are well capitalized and well managed;

''(D) the aggregate consolidated total assets of all financial subsidiaries of the national bank do not exceed the lesser of—

''(i) 45 percent of the consolidated total assets of the parent bank; or

''(ii) $50,000,000,000;

''(E) except as provided in paragraph (4), the national bank meets any applicable rating or other requirement set forth in paragraph (3); and

''(F) the national bank has received the approval of the Comptroller of the Currency for the financial subsidiary to engage in such activities, which approval shall be based solely upon the factors set forth in this section.

''(3) RATING OR COMPARABLE REQUIREMENT.—

''(A) IN GENERAL.—A national bank meets the requirements of this paragraph if—

''(i) the bank is 1 of the 50 largest insured banks and has not fewer than 1 issue of outstanding eligible debt that is currently rated within the 3 highest investment grade rating categories by a nationally recognized statistical rating organization; or

''(ii) the bank is 1 of the second 50 largest insured banks and meets the criteria set forth in clause (i) or such other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish by regulation and determine to be comparable to and consistent with the purposes of the rating required in clause (i).

''(B) CONSOLIDATED TOTAL ASSETS.—For purposes of this paragraph, the size of an insured bank shall be determined on the basis of the consolidated total assets of the bank as of the end of each calendar year.

''(4) FINANCIAL AGENCY SUBSIDIARY.—The requirement in paragraph (2)(E) shall not apply with respect to the ownership or control of a financial subsidiary that engages in activities described in subsection (b)(1) solely as agent and not directly or indirectly as principal.

''(5) REGULATIONS REQUIRED.—Before the end of the 270-day period beginning on the date of the enactment of the Gramm-Leach-Bliley Act, the Comptroller of the Currency shall, by regulation, prescribe procedures to implement this section.

''(6) INDEXED ASSET LIMIT.—The dollar amount contained in paragraph (2)(D) shall be adjusted according to an indexing mechanism jointly established by regulation by the Secretary of the Treasury and the Board of Governors of the Federal Reserve System.

''(7) COORDINATION WITH SECTION 4(l)(2) OF THE BANK HOLDING COMPANY ACT OF 1956.—Section 4(l)(2) of the Bank Holding Company Act of 1956 applies to a national bank that controls a financial subsidiary in the manner provided in that section.

''(b) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—An activity shall be financial in nature or incidental to such financial activity only if—

''(i) such activity has been defined to be financial in nature or incidental to a financial activity for bank holding companies pursuant to section 4(k)(4) of the Bank Holding Company Act of 1956; or

''(ii) the Secretary of the Treasury determines the activity is financial in nature or incidental to a financial activity in accordance with subparagraph (B).

''(B) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE SECRETARY OF THE TREASURY.—

''(I) CONSULTATION.—The Secretary of the Treasury shall notify the Board of, and consult with the Board concerning, any request, proposal, or application under this section for a determination of whether an activity is financial in nature or incidental to a financial activity.

''(II) BOARD VIEW.—The Secretary of the Treasury shall not determine that any activity is financial in nature or incidental to a financial activity under this section if the Board notifies the Secretary in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Secretary determines to be appropriate under the circumstances) that the Board believes that the activity is not financial in nature or incidental to a financial activity or is not otherwise permissible under this section.

''(ii) PROPOSALS RAISED BY THE BOARD.—

''(I) BOARD RECOMMENDATION.—The Board may, at any time, recommend in writing that the Secretary of the Treasury find an activity to be financial in nature or incidental to a financial activity for purposes of this section.

''(II) TIME PERIOD FOR SECRETARIAL ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Board under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate under the circumstances), the Secretary shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this section, and shall notify the Board in writing of the determination of the Secretary and, in the event that the Secretary determines not to seek public comment on the proposal, the reasons for that determination.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to a financial activity, the Secretary shall take into account—

''(A) the purposes of this Act and the Gramm-Leach-Bliley Act;

''(B) changes or reasonably expected changes in the marketplace in which banks compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) efficiently deliver information and services that are financial in nature through the use of technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions; and

''(iii) offer customers any available or emerging technological means for using financial services or for the document imaging of data.

''(3) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Secretary of the Treasury shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act and the Gramm-Leach-Bliley Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to a financial activity:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(c) CAPITAL DEDUCTION.—

''(1) CAPITAL DEDUCTION REQUIRED.—In determining compliance with applicable capital standards—

''(A) the aggregate amount of the outstanding equity investment, including retained earnings, of a national bank in all financial subsidiaries shall be deducted from the assets and tangible equity of the national bank; and

''(B) the assets and liabilities of the financial subsidiaries shall not be consolidated with those of the national bank.

''(2) FINANCIAL STATEMENT DISCLOSURE OF CAPITAL DEDUCTION.—Any published financial statement of a national bank that controls a financial subsidiary shall, in addition to providing information prepared in accordance with generally accepted accounting principles, separately present financial information for the bank in the manner provided in paragraph (1).

''(d) SAFEGUARDS FOR THE BANK.—A national bank that establishes or maintains a financial subsidiary shall assure that—

''(1) the procedures of the national bank for identifying and managing financial and operational risks within the national bank and the financial subsidiary adequately protect the national bank from such risks;

''(2) the national bank has, for the protection of the bank, reasonable policies and procedures to preserve the separate corporate identity and limited liability of the national bank and the financial subsidiaries of the national bank; and

''(3) the national bank is in compliance with this section.

''(e) PROVISIONS APPLICABLE TO NATIONAL BANKS THAT FAIL TO CONTINUE TO MEET CERTAIN REQUIREMENTS.—

''(1) IN GENERAL.—If a national bank or insured depository institution affiliate does not continue to meet the requirements of subsection (a)(2)(C) or subsection (d), the Comptroller of the Currency shall promptly give notice to the national bank to that effect describing the conditions giving rise to the notice.

''(2) AGREEMENT TO CORRECT CONDITIONS.—Not later than 45 days after the date of receipt by a national bank of a notice given under paragraph (1) (or such additional period as the Comptroller of the Currency may permit), the national bank shall execute an agreement with the Comptroller of the Currency and any relevant insured depository institution affiliate shall execute an agreement with its appropriate Federal banking agency to comply with the requirements of subsection (a)(2)(C) and subsection (d).

''(3) IMPOSITION OF CONDITIONS.—Until the conditions described in a notice under paragraph (1) are corrected—

''(A) the Comptroller of the Currency may impose such limitations on the conduct or activities of the national bank or any subsidiary of the national bank as the Comptroller of the Currency determines to be appropriate under the circumstances and consistent with the purposes of this section; and

''(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of any relevant insured depository institution affiliate or any subsidiary of the institution as such agency determines to be appropriate under the circumstances and consistent with the purposes of this section.

''(4) FAILURE TO CORRECT.—If the conditions described in a notice to a national bank under paragraph (1) are not corrected within 180 days after the date of receipt by the national bank of the notice, the Comptroller of the Currency may require the national bank, under such terms and conditions as may be imposed by the Comptroller and subject to such extension of time as may be granted in the discretion of the Comptroller, to divest control of any financial subsidiary.

''(5) CONSULTATION.—In taking any action under this subsection, the Comptroller shall consult with all relevant Federal and State regulatory agencies and authorities.

''(f) FAILURE TO MAINTAIN PUBLIC RATING OR MEET APPLICABLE CRITERIA.—

''(1) IN GENERAL.—A national bank that does not continue to meet any applicable rating or other requirement of subsection (a)(2)(E) after acquiring or establishing a financial subsidiary shall not, directly or through a subsidiary, purchase or acquire any additional equity capital of any financial subsidiary until the bank meets such requirements.

''(2) EQUITY CAPITAL.—For purposes of this subsection, the term 'equity capital' includes, in addition to any equity instrument, any debt instrument issued by a financial subsidiary, if the instrument qualifies as capital of the subsidiary under any Federal or State law, regulation, or interpretation applicable to the subsidiary.

''(g) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) AFFILIATE, COMPANY, CONTROL, AND SUBSIDIARY.—The terms 'affiliate', 'company', 'control', and 'subsidiary' have the meanings given those terms in section 2 of the Bank Holding Company Act of 1956.

''(2) APPROPRIATE FEDERAL BANKING AGENCY, DEPOSITORY INSTITUTION, INSURED BANK, AND INSURED DEPOSITORY INSTITUTION.—The terms 'appropriate Federal banking agency', 'depository institution', 'insured bank', and 'insured depository institution' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act.

''(3) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means any company that is controlled by 1 or more insured depository institutions other than a subsidiary that—

''(A) engages solely in activities that national banks are permitted to engage in directly and are conducted subject to the same terms and conditions that govern the conduct of such activities by national banks; or

''(B) a national bank is specifically authorized by the express terms of a Federal statute (other than this section), and not by implication or interpretation, to control, such as by section 25 or 25A of the Federal Reserve Act or the Bank Service Company Act.

''(4) ELIGIBLE DEBT.—The term 'eligible debt' means unsecured long-term debt that—

''(A) is not supported by any form of credit enhancement, including a guarantee or standby letter of credit; and

''(B) is not held in whole or in any significant part by any affiliate, officer, director, principal shareholder, or employee of the bank or any other person acting on behalf of or with funds from the bank or an affiliate of the bank.

''(5) WELL CAPITALIZED.—The term 'well capitalized' has the meaning given the term in section 38 of the Federal Deposit Insurance Act.

''(6) WELL MANAGED.—The term 'well managed' means—

''(A) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

''(i) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

''(ii) at least a rating of 2 for management, if such rating is given; or

''(B) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.''.

(b) SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT.—

(1) LIMITING THE EXPOSURE OF A BANK TO A FINANCIAL SUBSIDIARY TO THE AMOUNT OF PERMISSIBLE EXPOSURE TO AN AFFILIATE.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(A) by redesignating subsection (e) as subsection (f); and

(B) by inserting after subsection (d), the following new subsection:

''(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES.—

''(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term 'financial subsidiary' means any company that is a subsidiary of a bank that would be a financial subsidiary of a national bank under section 5136A of the Revised Statutes of the United States.

''(2) FINANCIAL SUBSIDIARY TREATED AS AN AFFILIATE.—For purposes of applying this section and section 23B, and notwithstanding subsection (b)(2) of this section or section 23B(d)(1), a financial subsidiary of a bank—

''(A) shall be deemed to be an affiliate of the bank; and

''(B) shall not be deemed to be a subsidiary of the bank.

''(3) EXCEPTIONS FOR TRANSACTIONS WITH FINANCIAL SUBSIDIARIES.—

''(A) EXCEPTION FROM LIMIT ON COVERED TRANSACTIONS WITH ANY INDIVIDUAL FINANCIAL SUBSIDIARY.—Notwithstanding paragraph (2), the restriction contained in subsection (a)(1)(A) shall not apply with respect to covered transactions between a bank and any individual financial subsidiary of the bank.

''(B) EXCEPTION FOR EARNINGS RETAINED BY FINANCIAL SUBSIDIARIES.—Notwithstanding paragraph (2) or subsection (b)(7), a bank's investment in a financial subsidiary of the bank shall not include retained earnings of the financial subsidiary.

''(4) ANTI-EVASION PROVISION.—For purposes of this section and section 23B—

''(A) any purchase of, or investment in, the securities of a financial subsidiary of a bank by an affiliate of the bank shall be considered to be a purchase of or investment in such securities by the bank; and

''(B) any extension of credit by an affiliate of a bank to a financial subsidiary of the bank shall be considered to be an extension of credit by the bank to the financial subsidiary if the Board determines that such treatment is necessary or appropriate to prevent evasions of this Act and the Gramm-Leach-Bliley Act.''.

(2) REBUTTABLE PRESUMPTION OF CONTROL OF PORTFOLIO COMPANY.—Section 23A(b) of the Federal Reserve Act (12 U.S.C. 371c(b)) is amended by adding at the end the following new paragraph—

''(11) REBUTTABLE PRESUMPTION OF CONTROL OF PORTFOLIO COMPANIES.—In addition to paragraph (3), a company or shareholder shall be presumed to control any other company if the company or shareholder, directly or indirectly, or acting through 1 or more other persons, owns or controls 15 percent or more of the equity capital of the other company pursuant to subparagraph (H) or (I) of section 4(k)(4) of the Bank Holding Company Act of 1956 or rules adopted under section 122 of the Gramm-Leach-Bliley Act, if any, unless the company or shareholder provides information acceptable to the Board to rebut this presumption of control.''.

(3) RULEMAKING REQUIRED CONCERNING DERIVATIVE TRANSACTIONS AND INTRADAY CREDIT.—Section 23A(f) of the Federal Reserve Act (12 U.S.C. 371c(f)) (as so redesignated by paragraph (1)(A) of this subsection) is amended by inserting at the end the following new paragraph:

''(3) RULEMAKING REQUIRED CONCERNING DERIVATIVE TRANSACTIONS AND INTRADAY CREDIT.—

''(A) IN GENERAL.—Not later than 18 months after the date of the enactment of the Gramm-Leach-Bliley Act, the Board shall adopt final rules under this section to address as covered transactions credit exposure arising out of derivative transactions between member banks and their affiliates and intraday extensions of credit by member banks to their affiliates.

''(B) EFFECTIVE DATE.—The effective date of any final rule adopted by the Board pursuant to subparagraph (A) shall be delayed for such period as the Board deems necessary or appropriate to permit banks to conform their activities to the requirements of the final rule without undue hardship.''.

(c) ANTITYING.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971) is amended by adding at the end the following: ''For purposes of this section, a financial subsidiary of a national bank engaging in activities pursuant to section 5136A(a) of the Revised Statutes of the United States shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''.

(d) SAFETY AND SOUNDNESS FIREWALLS FOR STATE BANKS WITH FINANCIAL SUBSIDIARIES.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 45 (as added by section 112(b) of this title) the following new section:

"SEC. 46. SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO FINANCIAL SUBSIDIARIES OF BANKS.

''(a) IN GENERAL.—An insured State bank may control or hold an interest in a subsidiary that engages in activities as principal that would only be permissible for a national bank to conduct through a financial subsidiary if—

''(1) the State bank and each insured depository institution affiliate of the State bank are well capitalized (after the capital deduction required by paragraph (2));

''(2) the State bank complies with the capital deduction and financial statement disclosure requirements in section 5136A(c) of the Revised Statutes of the United States;

''(3) the State bank complies with the financial and operational safeguards required by section 5136A(d) of the Revised Statutes of the United States; and

''(4) the State bank complies with the amendments to sections 23A and 23B of the Federal Reserve Act made by section 121(b) of the Gramm-Leach-Bliley Act.

''(b) PRESERVATION OF EXISTING SUBSIDIARIES.—Notwithstanding subsection (a), an insured State bank may retain control of a subsidiary, or retain an interest in a subsidiary, that the State bank lawfully controlled or acquired before the date of the enactment of the Gramm-Leach-Bliley Act, and conduct through such subsidiary any activities lawfully conducted in such subsidiary as of such date.

''(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) SUBSIDIARY.—The term 'subsidiary' means any company that is a subsidiary (as defined in section 3(w)(4)) of 1 or more insured banks.

''(2) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' has the meaning given the term in section 5136A(g) of the Revised Statutes of the United States.

''(d) PRESERVATION OF AUTHORITY.—

''(1) FEDERAL DEPOSIT INSURANCE ACT.—No provision of this section shall be construed as superseding the authority of the Federal Deposit Insurance Corporation to review subsidiary activities under section 24.

''(2) FEDERAL RESERVE ACT.—No provision of this section shall be construed as affecting the applicability of the 20th undesignated paragraph of section 9 of the Federal Reserve Act.''.

(2) FEDERAL RESERVE ACT.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end the following: ''This paragraph shall not apply to any interest held by a State member bank in accordance with section 5136A of the Revised Statutes of the United States and subject to the same conditions and limitations provided in such section.''.

(e) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136B; and

(2) by inserting after the item relating to section 5136 the following new item:

''5136A. Financial subsidiaries of national banks.''.

SEC. 122. CONSIDERATION OF MERCHANT BANKING ACTIVITIES BY FINANCIAL SUBSIDIARIES.

After the end of the 5-year period beginning on the date of the enactment of the Gramm-Leach-Bliley Act, the Board of Governors of the Federal Reserve System and the Secretary of the Treasury may, if appropriate, after considering—

(1) the experience with the effects of financial modernization under this Act and merchant banking activities of financial holding companies;

(2) the potential effects on depository institutions and the financial system of allowing merchant banking activities in financial subsidiaries; and

(3) other relevant facts;

jointly adopt rules that permit financial subsidiaries to engage in merchant banking activities described in section 4(k)(4)(H) of the Bank Holding Company Act of 1956, under such terms and conditions as the Board of Governors of the Federal Reserve System and the Secretary of the Treasury jointly determine to be appropriate.

Subtitle D—Preservation of FTC Authority

SEC. 131. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting ''and, if the transaction also involves an acquisition under section 4, the Board shall also notify the Federal Trade Commission of such approval'' before the period at the end of the first sentence.

SEC. 132. INTERAGENCY DATA SHARING.

(a) IN GENERAL.—To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such banking agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3 or 4 of the Bank Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

(b) CONFIDENTIALITY REQUIREMENTS.—

(1) IN GENERAL.—Any information or material obtained by any agency pursuant to subsection (a) shall be treated as confidential.

(2) PROCEDURES FOR DISCLOSURE.—If any information or material obtained by any agency pursuant to subsection (a) is proposed to be disclosed to a third party, written notice of such disclosure shall first be provided to the agency from which such information or material was obtained and an opportunity shall be given to such agency to oppose or limit the proposed disclosure.

(3) OTHER PRIVILEGES NOT WAIVED BY DISCLOSURE UNDER THIS SECTION.—The provision by any Federal agency of any information or material pursuant to subsection (a) to another agency shall not constitute a waiver, or otherwise affect, any privilege any agency or person may claim with respect to such information under Federal or State law.

(4) EXCEPTION.—No provision of this section shall be construed as preventing or limiting access to any information by any duly authorized committee of the Congress or the Comptroller General of the United States.

(c) BANKING AGENCY INFORMATION SHARING.—The provisions of subsection (b) shall apply to—

(1) any information or material obtained by any Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) from any other Federal banking agency; and

(2) any report of examination or other confidential supervisory information obtained by any State agency or authority, or any other person, from a Federal banking agency.

SEC. 133. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person that directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of any provisions applied by the Federal Trade Commission under the Federal Trade Commission Act.

(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

(c) HART-SCOTT-RODINO AMENDMENTS.—

(1) BANKS.—Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting before the semicolon at the end the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 4(k) of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 3 of the Bank Holding Company Act of 1956''.

(2) BANK HOLDING COMPANIES.—Section 7A(c)(8) of the Clayton Act (15 U.S.C. 18a(c)(8)) is amended by inserting before the semicolon at the end the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 4(k) of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 4 of the Bank Holding Company Act of 1956''.

Subtitle E—National Treatment

SEC. 141. FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

''(3) TERMINATION OF GRANDFATHERED RIGHTS.—

''(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 4(l)(1)(C) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity that the Board has determined to be permissible for financial holding companies under section 4(k) of such Act shall terminate immediately.

''(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity that the Board has determined to be permissible for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section by the end of the 2-year period beginning on the date of the enactment of the Gramm-Leach-Bliley Act, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 114 of the Gramm-Leach-Bliley Act.''.

SEC. 142. REPRESENTATIVE OFFICES.

(a) DEFINITION.—Section 1(b)(15) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking ''State agency, or subsidiary of a foreign bank'' and inserting ''or State agency''.

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3107(c)) is amended by adding at the end the following new sentence: ''The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board

deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, or other applicable Federal banking law.''.

Subtitle F—Direct Activities of Banks

SEC. 151. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: ''In addition to the provisions in this paragraph for dealing in, underwriting, or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).''.

Subtitle G—Effective Date

SEC. 161. EFFECTIVE DATE.

This title (other than section 104) and the amendments made by this title shall take effect 120 days after the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

''(4) BROKER.—

''(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

''(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any one or more of the following activities under the conditions described:

''(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other written arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

''(I) such broker or dealer is clearly identified as the person performing the brokerage services;

''(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

''(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

''(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement are in compliance with the Federal securities laws before distribution;

''(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the types of investment vehicles available from the bank and the broker or dealer under the arrangement;

''(VI) bank employees do not receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

''(VII) such services are provided by the broker or dealer on a basis in which all customers that receive any services are fully disclosed to the broker or dealer;

''(VIII) the bank does not carry a securities account of the customer except as permitted under clause (ii) or (viii) of this subparagraph; and

''(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

''(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and—

''(I) is chiefly compensated for such transactions, consistent with fiduciary principles and standards, on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees; and

''(II) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

''(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(iv) CERTAIN STOCK PURCHASE PLANS.—

''(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its affiliates (as defined in section 2 of the Bank Holding Company Act of 1956), if the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan.

''(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of that issuer's dividend reinvestment plan, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan; and

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission.

''(III) ISSUER PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program for the purchase or sale of that issuer's shares, if—

''(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program; and

''(bb) the bank does not net shareholders' buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission.

''(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by delivery of written or electronic plan materials by a bank to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

''(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Gramm-Leach-Bliley Act; or

''(bb) otherwise permitted by the Commission.

''(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

''(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate of the bank (as defined in section 2 of the Bank Holding Company Act of 1956) other than—

''(I) a registered broker or dealer; or

''(II) an affiliate that is engaged in merchant banking, as described in section 4(k)(4)(H) of the Bank Holding Company Act of 1956.

''(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

''(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder;

''(II) at any time after the date that is 1 year after the date of the enactment of the Gramm-Leach-Bliley Act, is not affiliated with a broker or dealer that has been registered for more than 1 year in accordance with this Act, and engages in dealing, market making, or underwriting activities, other than with respect to exempted securities; and

''(III) if the bank is not affiliated with a broker or dealer, does not effect any primary offering described in subclause (I) the aggregate amount of which exceeds 25 percent of the capital of the bank, except that the limitation of this subclause shall not apply with respect to any sale of government securities or municipal securities.

''(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

''(I) IN GENERAL.—The bank, as part of customary banking activities—

''(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

''(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

''(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions;

''(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided

under applicable law, if the bank maintains records separately identifying the securities and the customer; or

''(ee) serves as a custodian or provider of other related administrative services to any individual retirement account, pension, retirement, profit sharing, bonus, thrift savings, incentive, or other similar benefit plan.

''(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) of this title and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

''(ix) IDENTIFIED BANKING PRODUCTS.—The bank effects transactions in identified banking products as defined in section 206 of the Gramm-Leach-Bliley Act.

''(x) MUNICIPAL SECURITIES.—The bank effects transactions in municipal securities.

''(xi) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (x), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

''(C) EXECUTION BY BROKER OR DEALER.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

''(i) the bank directs such trade to a registered broker or dealer for execution;

''(ii) the trade is a cross trade or other substantially similar trade of a security that—

''(I) is made by the bank or between the bank and an affiliated fiduciary; and

''(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

''(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

''(D) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

''(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act, or as an investment adviser if the bank receives a fee for its investment advice;

''(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

''(iii) in any other similar capacity.

''(E) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

''(i) was, on the day before the date of enactment of the Gramm-Leach-Bliley Act, subject to section 15(e); and

''(ii) is subject to such restrictions and requirements as the Commission considers appropriate.''.

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

''(5) DEALER.—

''(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

''(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

''(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

''(I) for the bank; or

''(II) for accounts for which the bank acts as a trustee or fiduciary.

''(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or other separate entity, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations (other than securities of which the bank is not the issuer), or pools of any such obligations predominantly originated by—

''(I) the bank;

''(II) an affiliate of any such bank other than a broker or dealer; or

''(III) a syndicate of banks of which the bank is a member, if the obligations or pool of obligations consists of mortgage obligations or consumer-related receivables.

''(iv) IDENTIFIED BANKING PRODUCTS.—The bank buys or sells identified banking products, as defined in section 206 of the Gramm-Leach-Bliley Act.''.

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (i) the following new subsection:

''(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of the enactment of the Gramm-Leach-Bliley Act, engaged in effecting such sales.''.

SEC. 204. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

''(t) RECORDKEEPING REQUIREMENTS.—

''(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions.

''(2) AVAILABILITY TO COMMISSION; CONFIDENTIALITY.—Each appropriate Federal banking agency shall make any information required under paragraph (1) available to the Commission upon request. Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any such information. Nothing in this paragraph shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

''(3) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.''.

SEC. 205. TREATMENT OF NEW HYBRID PRODUCTS.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

''(i) RULEMAKING TO EXTEND REQUIREMENTS TO NEW HYBRID PRODUCTS.—

''(1) CONSULTATION.—Prior to commencing a rulemaking under this subsection, the Commission shall consult with and seek the concurrence of the Board concerning the imposition of broker or dealer registration requirements with respect any new hybrid product. In developing and promulgating rules under this subsection, the Commission shall consider the views of the Board, including views with respect to the nature of the new hybrid product; the history, purpose, extent, and appropriateness of the regulation of the new product under the Federal banking laws; and the impact of the proposed rule on the banking industry.

''(2) LIMITATION.—The Commission shall not—

''(A) require a bank to register as a broker or dealer under this section because the bank engages in any transaction in, or buys or sells, a new hybrid product; or

''(B) bring an action against a bank for a failure to comply with a requirement described in subparagraph (A),

unless the Commission has imposed such requirement by rule or regulation issued in accordance with this section.

''(3) CRITERIA FOR RULEMAKING.—The Commission shall not impose a requirement under paragraph (2) of this subsection with respect to any new hybrid product unless the Commission determines that—

''(A) the new hybrid product is a security; and

''(B) imposing such requirement is necessary and appropriate in the public interest and for the protection of investors.

''(4) CONSIDERATIONS.—In making a determination under paragraph (3), the Commission shall consider—

''(A) the nature of the new hybrid product; and

''(B) the history, purpose, extent, and appropriateness of the regulation of the new hybrid product under the Federal securities laws and under the Federal banking laws.

''(5) OBJECTION TO COMMISSION REGULATION.—

''(A) FILING OF PETITION FOR REVIEW.—The Board may obtain review of any final regulation described in paragraph (2) in the United States Court of Appeals for the District of Columbia Circuit by filing in such court, not later than 60 days after the date of publication of the final regulation, a written petition requesting that the regulation be set aside. Any proceeding to challenge any such rule shall be expedited by the Court of Appeals.

''(B) TRANSMITTAL OF PETITION AND RECORD.—A copy of a petition described in subparagraph (A) shall be transmitted as soon as

possible by the Clerk of the Court to an officer or employee of the Commission designated for that purpose. Upon receipt of the petition, the Commission shall file with the court the regulation under review and any documents referred to therein, and any other relevant materials prescribed by the court.

''(C) EXCLUSIVE JURISDICTION.—On the date of the filing of the petition under subparagraph (A), the court has jurisdiction, which becomes exclusive on the filing of the materials set forth in subparagraph (B), to affirm and enforce or to set aside the regulation at issue.

''(D) STANDARD OF REVIEW.—The court shall determine to affirm and enforce or set aside a regulation of the Commission under this subsection, based on the determination of the court as to whether—

''(i) the subject product is a new hybrid product, as defined in this subsection;

''(ii) the subject product is a security; and

''(iii) imposing a requirement to register as a broker or dealer for banks engaging in transactions in such product is appropriate in light of the history, purpose, and extent of regulation under the Federal securities laws and under the Federal banking laws, giving deference neither to the views of the Commission nor the Board.

''(E) JUDICIAL STAY.—The filing of a petition by the Board pursuant to subparagraph (A) shall operate as a judicial stay, until the date on which the determination of the court is final (including any appeal of such determination).

''(F) OTHER AUTHORITY TO CHALLENGE.—Any aggrieved party may seek judicial review of the Commission's rulemaking under this subsection pursuant to section 25 of this title.

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) NEW HYBRID PRODUCT.—The term 'new hybrid product' means a product that—

''(i) was not subjected to regulation by the Commission as a security prior to the date of the enactment of the Gramm-Leach-Bliley Act;

''(ii) is not an identified banking product as such term is defined in section 206 of such Act; and

''(iii) is not an equity swap within the meaning of section 206(a)(6) of such Act.

''(B) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.''.

SEC. 206. DEFINITION OF IDENTIFIED BANKING PRODUCT.

(a) DEFINITION OF IDENTIFIED BANKING PRODUCT.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5)), the term ''identified banking product'' means—

(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(2) a banker's acceptance;

(3) a letter of credit issued or loan made by a bank;

(4) a debit account at a bank arising from a credit card or similar arrangement;

(5) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(A) to qualified investors; or

(B) to other persons that—

(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; or

(6) any swap agreement, including credit and equity swaps, except that an equity swap that is sold directly to any person other than a qualified investor (as defined in section 3(a)(54) of the Securities Act of 1934) shall not be treated as an identified banking product.

(b) DEFINITION OF SWAP AGREEMENT.—For purposes of subsection (a)(6), the term ''swap agreement'' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include any other identified banking product, as defined in paragraphs (1) through (5) of subsection (a).

(c) CLASSIFICATION LIMITED.—Classification of a particular product as an identified banking product pursuant to this section shall not be construed as finding or implying that such product is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(d) INCORPORATED DEFINITIONS.—For purposes of this section, the terms ''bank'' and ''qualified investor'' have the same meanings as given in section 3(a) of the Securities Exchange Act of 1934, as amended by this Act.

SEC. 207. ADDITIONAL DEFINITIONS.

Section 3(a) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraph:

''(54) QUALIFIED INVESTOR.—

''(A) DEFINITION.—Except as provided in subparagraph (B), for purposes of this title, the term 'qualified investor' means—

''(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

''(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

''(iii) any bank (as defined in paragraph (6) of this subsection), savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

''(iv) any small business investment company licensed by the United States Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958;

''(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

''(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

''(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

''(viii) any associated person of a broker or dealer other than a natural person;

''(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

''(x) the government of any foreign country;

''(xi) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $25,000,000 in investments;

''(xii) any natural person who owns and invests on a discretionary basis, not less than $25,000,000 in investments;

''(xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

''(xiv) any multinational or supranational entity or any agency or instrumentality thereof.

''(B) ALTERED THRESHOLDS FOR ASSET-BACK SECURITIES AND LOAN PARTICIPATIONS.—For purposes sections 3(a)(5)(C)(iii) of this title and section 206(a)(5) of the Gramm-Leach-Bliley Act, the term 'qualified investor' has the meaning given such term by subparagraph (A) of this paragraph except that clauses (xi) and (xii) shall be applied by substituting '$10,000,000' for '$25,000,000'.

''(C) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.''.

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

(3) by adding at the end the following new subparagraph:

''(E) for purposes of sections 15, 15C, and 17A as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes of the United States.''.

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 18-month period beginning on the date of the enactment of this Act.

SEC. 210. RULE OF CONSTRUCTION.

Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking ''(f) Every registered'' and inserting the following:

''(f) CUSTODY OF SECURITIES.—

''(1) Every registered'';

(3) by redesignating the second, third, fourth, and fifth sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

(4) by adding at the end the following new paragraph:

''(6) The Commission may, after consultation with and taking into consideration the views of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.''.

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

''(b) The Commission may, after consultation with and taking into consideration the views of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).''.

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(a)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

(3) by adding at the end the following new paragraph:

''(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may, after consultation with and taking into consideration the views of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), prescribe or issue consistent with the protection of investors.''.

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account over which the investment company's investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account for which the investment company's investment adviser has borrowing authority,''.

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account over which the investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account for which the investment adviser has borrowing authority,''.

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking ''bank, except'' and inserting ''bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except''.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

''(a) MISREPRESENTATION OF GUARANTEES.—

''(1) IN GENERAL.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

''(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

''(B) has been insured by the Federal Deposit Insurance Corporation; or

''(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

''(2) DISCLOSURES.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may, after consultation with and taking into consideration the views of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

''(3) DEFINITIONS.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the same meanings as given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

''(6) The term 'broker' has the same meaning as given in section 3 of the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.''.

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

''(11) The term 'dealer' has the same meaning as given in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) INVESTMENT ADVISER.—Section 202(a)(11)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)(A)) is amended by striking ''investment company'' and inserting ''investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser''.

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

''(26) The term 'separately identifiable department or division' of a bank means a unit—

''(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

''(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.''.

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

''(3) The term 'broker' has the same meaning as given in section 3 of the Securities Exchange Act of 1934.''.

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

''(7) The term 'dealer' has the same meaning as given in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

''SEC. 210A. CONSULTATION.

''(a) EXAMINATION RESULTS AND OTHER INFORMATION.—

''(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access—

''(A) with respect to the investment advisory activities of any—

''(i) bank holding company;

''(ii) bank; or

''(iii) separately identifiable department or division of a bank,

that is registered under section 203 of this title; and

''(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, with respect to the investment advisory activities of such bank or bank holding company.

''(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, which is registered under section 203 of this title.

''(3) Notwithstanding any other provision of law, the Commission and the appropriate Federal banking agencies shall not be compelled to disclose any information provided under paragraph (1) or (2). Nothing in this paragraph shall authorize the Commission or such agencies to withhold information from Congress, or prevent the Commission or such agencies from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States, the Commission, or such agencies. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

''(b) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company (or affiliates or subsidiaries thereof), bank, or subsidiary, department, or division or a bank under any other provision of law.

''(c) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' shall have the same meaning as given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking ''or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian'' and inserting ''or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

''(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: '', if—

''(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

''(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

''(i) advertised; or

''(ii) offered for sale to the general public; and

''(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law''.

SEC. 222. STATUTORY DISQUALIFICATION FOR BANK WRONGDOING.

Section 9(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(a)) is amended in paragraphs (1) and (2) by striking ''securities dealer, transfer agent,'' and inserting ''securities dealer, bank, transfer agent,''.

SEC. 223. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(5)) is amended by striking ''(A) a banking institution organized under the laws of the United States'' and inserting ''(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)''.

SEC. 224. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following new subsection:

''(c) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.''.

SEC. 225. EFFECTIVE DATE.

This subtitle shall take effect 18 months after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (k); and

(2) by inserting after subsection (h) the following new subsections:

''(i) INVESTMENT BANK HOLDING COMPANIES.—

''(1) ELECTIVE SUPERVISION OF AN INVESTMENT BANK HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

''(A) IN GENERAL.—An investment bank holding company that is not—

''(i) an affiliate of an insured bank (other than an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956), or a savings association;

''(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978; or

''(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

''(B) NOTIFICATION OF STATUS AS A SUPERVISED INVESTMENT BANK HOLDING COMPANY.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after the date of receipt of such written notice by the Commission or within such shorter time period as the Commission, by rule or order, may determine.

''(2) ELECTION NOT TO BE SUPERVISED BY THE COMMISSION AS AN INVESTMENT BANK HOLDING COMPANY.—

''(A) VOLUNTARY WITHDRAWAL.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until 1 year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

''(B) DISCONTINUATION OF COMMISSION SUPERVISION.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

''(3) SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES.—

''(A) RECORDKEEPING AND REPORTING.—

''(i) IN GENERAL.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

''(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

''(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(ii) FORM AND CONTENTS.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

''(I) a balance sheet and income statement;

''(II) an assessment of the consolidated capital of the supervised investment bank holding company;

''(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

''(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

''(ii) AVAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

''(C) EXAMINATION AUTHORITY.—

''(i) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

''(I) inform the Commission regarding—

''(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

''(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

''(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

''(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

''(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

''(I) the company; and

''(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

''(iii) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

''(4) FUNCTIONAL REGULATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

''(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

''(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

''(5) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'investment bank holding company' means—

''(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

''(ii) the associated persons of the investment bank holding company.

''(B) The term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection.

''(C) The terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', and 'savings association' have the same meanings as given in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

''(D) The term 'insured bank' has the same meaning as given in section 3 of the Federal Deposit Insurance Act.

''(E) The term 'foreign bank' has the same meaning as given in section 1(b)(7) of the International Banking Act of 1978.

''(F) The terms 'person associated with an investment bank holding company' and 'associated person of an investment bank holding company' mean any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.

''(j) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraph:

''(H) When used with respect to an institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956—

''(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

''(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

''(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

''(iv) the Commission in the case of all other such institutions.''.

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking ''this title'' and inserting ''law''; and

(B) by inserting '', examination reports'' after ''financial records''.

Subtitle D—Banks and Bank Holding Companies

SEC. 241. CONSULTATION.

(a) IN GENERAL.—The Securities and Exchange Commission shall consult and coordinate comments with the appropriate Federal banking agency before taking any action or rendering any opinion with respect to the manner in which any insured depository institution or depository institution holding company reports loan loss reserves in its financial statement, including the amount of any such loan loss reserve.

(b) DEFINITIONS.—For purposes of subsection (a), the terms ''insured depository institution'', ''depository institution holding company'', and ''appropriate Federal banking agency'' have the same meaning as given in section 3 of the Federal Deposit Insurance Act.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. FUNCTIONAL REGULATION OF INSURANCE.

The insurance activities of any person (including a national bank exercising its power to act as agent under the eleventh undesignated paragraph of section 13 of the Federal Reserve Act) shall be functionally regulated by the States, subject to section 104.

SEC. 302. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 303, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) AUTHORIZED PRODUCTS.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1999, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term ''insurance'' means—

(1) any product regulated as insurance as of January 1, 1999, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1999, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, if the bank were subject to tax as an insurance company under section 831 of that Code; or

(3) any annuity contract, the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(d) RULE OF CONSTRUCTION.—For purposes of this section, providing insurance (including reinsurance) outside the United States that insures, guarantees, or indemnifies insurance products provided in a State, or that indemnifies an insurance company with regard to insurance products provided in a State, shall be considered to be providing insurance as principal in that State.

SEC. 303. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) GENERAL PROHIBITION.—No national bank may engage in any activity involving the underwriting or sale of title insurance.

(b) NONDISCRIMINATION PARITY EXCEPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including section 104 of this Act), in the case of any State in which banks organized under the laws of such State are authorized to sell title insurance as agent, a national bank may sell title insurance as agent in such State, but only in the same manner, to the same extent, and under the same restrictions as such State banks are authorized to sell title insurance as agent in such State.

(2) COORDINATION WITH ''WILDCARD'' PROVISION.—A State law which authorizes State banks to engage in any activities in such State in which a national bank may engage shall not be treated as a statute which authorizes State banks to sell title insurance as agent, for purposes of paragraph (1).

(c) GRANDFATHERING WITH CONSISTENT REGULATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and notwithstanding subsections (a) and (b), a national bank, and a subsidiary of a national bank, may conduct title insurance activities which such national bank or subsidiary was actively and lawfully conducting before the date of the enactment of this Act.

(2) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in the underwriting of title insurance pursuant to paragraph (1).

(3) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate other than a subsidiary which provides insurance as principal, the national bank may not directly engage in any activity involving the underwriting of title insurance.

(d) ''AFFILIATE'' AND ''SUBSIDIARY'' DEFINED.—For purposes of this section, the terms ''affiliate'' and ''subsidiary'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

(e) RULE OF CONSTRUCTION.—No provision of this Act or any other Federal law shall be construed as superseding or affecting a State law which was in effect before the date of the enactment of this Act and which prohibits title insurance from being offered, provided, or sold in such State, or from being underwritten with respect to real property in such State, by any person whatsoever.

SEC. 304. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FEDERAL REGULATORS.

(a) FILING IN COURT OF APPEALS.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator regarding insurance issues, including whether a State law, rule, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, the Federal or State regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States Court of Appeals in which a petition for review is filed in accordance with subsection (a) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date on which such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States Court of Appeals with respect to a petition for review under this section shall be filed with the Supreme Court of the United States as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No petition may be filed under this section challenging an order, ruling, determination, or other action of a Federal regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date on which the first public notice is made of such order, ruling, determination or other action in its final form; or

(2) the end of the 6-month period beginning on the date on which such order, ruling, determination, or other action takes effect.

(e) STANDARD OF REVIEW.—The court shall decide a petition filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 305. INSURANCE CUSTOMER PROTECTIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 46, as added by section 121(d) of this Act, the following new section:

''SEC. 47. INSURANCE CUSTOMER PROTECTIONS.

''(a) REGULATIONS REQUIRED.—

''(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of the Gramm-Leach-Bliley Act, customer protection regulations (which the agencies jointly determine to be appropriate) that—

''(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any depository institution or any person that is engaged in such activities at an office of the institution or on behalf of the institution; and

''(B) are consistent with the requirements of this Act and provide such additional protections for customers to whom such sales, solicitations, advertising, or offers are directed.

''(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiary of a depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

''(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

''(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include antitying and anticoercion rules applicable to the sale of insurance products that prohibit a depository institution from engaging in any practice that would lead a customer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

''(1) the purchase of an insurance product from the institution or any of its affiliates; or

''(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

''(1) DISCLOSURES.—

''(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iii), at the time of application for an extension of credit:

''(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the depository institution.

''(ii) INVESTMENT RISK.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

''(iii) COERCION.—The approval of an extension of credit may not be conditioned on—

''(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of affiliate of the institution; or

''(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

''(i) 'NOT FDIC—INSURED'.

''(ii) 'NOT GUARANTEED BY THE BANK'.

''(iii) 'MAY GO DOWN IN VALUE'.

''(iv) 'NOT INSURED BY ANY GOVERNMENT AGENCY'.

''(C) LIMITATION.—Nothing in this paragraph requires the inclusion of the foregoing disclosures in advertisements of a general nature describing or listing the services or products offered by an institution.

''(D) MEANINGFUL DISCLOSURES.—Disclosures shall not be considered to be meaningfully provided under this paragraph if the institution or its representative states that disclosures required by this subsection were available to the customer in printed material available for distribution, where such printed material is not provided and such information is not orally disclosed to the customer.

''(E) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (F), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

''(F) CONSUMER ACKNOWLEDGMENT.—A requirement that a depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

''(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the depository institution, or any subsidiary, as appropriate, that could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

''(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution;

''(B) in the case of a variable annuity or insurance product that involves an investment risk, the investment risk associated with any such product; or

''(C) in the case of an institution or subsidiary at which insurance products are sold or offered for sale, the fact that—

''(i) the approval of an extension of credit to a customer by the institution or subsidiary may not be conditioned on the purchase of an insurance product by such customer from the institution or subsidiary; and

''(ii) the customer is free to purchase the insurance product from another source.

''(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

''(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following requirements:

''(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

''(B) REFERRALS.—Standards that permit any person accepting deposits from the public in an area where such transactions are routinely conducted in a depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

''(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

''(e) DOMESTIC VIOLENCE DISCRIMINATION PROHIBITION.—

''(1) IN GENERAL.—In the case of an applicant for, or an insured under, any insurance product described in paragraph (2), the status of the applicant or insured as a victim of domestic violence, or as a provider of services to victims of domestic violence, shall not be considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of insurance policies, or payment of insurance claims, except as required or expressly permitted under State law.

''(2) SCOPE OF APPLICATION.—The prohibition contained in paragraph (1) shall apply to any life or health insurance product which is sold or offered for sale, as principal, agent, or broker, by any depository institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution.

''(3) DOMESTIC VIOLENCE DEFINED.—For purposes of this subsection, the term 'domestic violence' means the occurrence of one or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

''(A) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault.

''(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm.

''(C) Subjecting another person to false imprisonment.

''(D) Attempting to cause or cause damage to property so as to intimidate or attempt to control the behavior of another person.

''(f) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

''(1) establish a group within each regulatory agency to receive such complaints;

''(2) develop procedures for investigating such complaints;

''(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

''(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

''(g) EFFECT ON OTHER AUTHORITY.—

''(1) IN GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

''(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

''(B) except as provided in paragraph (2), any authority of any State insurance commission (or any agency or office performing like functions), or of any State securities commission (or any agency or office performing like functions), or other State authority under any State law.

''(2) COORDINATION WITH STATE LAW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), insurance customer protection regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any depository institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

''(B) PREEMPTION.—

''(i) IN GENERAL.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Corporation determine jointly that the protection afforded by such provision for customers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, the appropriate State regulatory authority shall be notified of such determination in writing.

''(ii) CONSIDERATIONS.—Before making a final determination under clause (i), the Federal agencies referred to in clause (i) shall give appropriate consideration to comments submitted by the appropriate State regulatory authorities relating to the level of protection afforded to consumers under State law.

''(iii) FEDERAL PREEMPTION AND ABILITY OF STATES TO OVERRIDE FEDERAL PREEMPTION.—If the Federal agencies referred to in clause (i) jointly determine that any provision of the regulations prescribed under this section affords greater protections than a comparable State law, rule, regulation, order, or interpretation, those agencies shall send a written preemption notice to the appropriate State regulatory authority to notify the State that the Federal provision will preempt the State provision and will become applicable unless, not later than 3 years after the date of such notice, the State adopts legislation to override such preemption.

''(h) NON-DISCRIMINATION AGAINST NON-AFFILIATED AGENTS.—The Federal banking agencies shall ensure that the regulations prescribed pursuant to subsection (a) shall not have the effect of discriminating, either intentionally or unintentionally, against any person engaged in insurance sales or solicitations that is not affiliated with a depository institution.''.

SEC. 306. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

Except as provided in section 104(c)(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or significantly interfere with the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a financial holding company or to acquire control of a depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of a depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, significantly interfere with, or have the authority to review, approve, or disapprove a plan of reorganization by which an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

SEC. 307. INTERAGENCY CONSULTATION.

(a) PURPOSE.—It is the intention of the Congress that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, coordinate efforts to supervise companies that control both a depository institution and a company engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the State insurance regulators should share, on a confidential basis, information relevant to the supervision of companies that control both a depository institution and a company engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between insurance companies and affiliated depository institutions. The appropriate Federal banking agencies for depository institutions should also share, on a confidential basis, information with the relevant State insurance regulators regarding transactions and relationships between depository institutions and affiliated companies engaged in insurance activities. The purpose of this section is to encourage this coordination and confidential sharing of information, and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and companies engaged in insurance activities.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide any information of the Board regarding the financial condition, risk management policies, and operations of any financial holding company that controls a company that is engaged in insurance activities and is regulated by such State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide any information of the agency regarding any transaction or relationship between a depository institution supervised

by such Federal banking agency and any affiliated company that is engaged in insurance activities regulated by such State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the Board or the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which such insurance regulator may have access with respect to a company which—

(A) is engaged in insurance activities and regulated by such insurance regulator; and

(B) is an affiliate of a depository institution or financial holding company.

(c) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, a depository institution or financial holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to a depository institution or bank holding company or any affiliate thereof under any provision of law.

(e) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency shall not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

(f) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY; DEPOSITORY INSTITUTION.—The terms ''appropriate Federal banking agency'' and ''depository institution'' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD AND FINANCIAL HOLDING COMPANY.—The terms ''Board'' and ''financial holding company'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 308. DEFINITION OF STATE.

For purposes of this subtitle, the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Subtitle B—Redomestication of Mutual Insurers

SEC. 311. GENERAL APPLICATION.

This subtitle shall only apply to a mutual insurance company in a State which has not enacted a law which expressly establishes reasonable terms and conditions for a mutual insurance company domiciled in such State to reorganize into a mutual holding company.

SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.

(a) REDOMESTICATION.—A mutual insurer organized under the laws of any State may transfer its domicile to a transferee domicile as a step in a reorganization in which, pursuant to the laws of the transferee domicile and consistent with the standards in subsection (f), the mutual insurer becomes a stock insurer that is a direct or indirect subsidiary of a mutual holding company.

(b) RESULTING DOMICILE.—Upon complying with the applicable law of the transferee domicile governing transfers of domicile and completion of a transfer pursuant to this section, the mutual insurer shall cease to be a domestic insurer in the transferor domicile and, as a continuation of its corporate existence, shall be a domestic insurer of the transferee domicile.

(c) LICENSES PRESERVED.—The certificate of authority, agents' appointments and licenses, rates, approvals and other items that a licensed State allows and that are in existence immediately prior to the date that a redomesticating insurer transfers its domicile pursuant to this subtitle shall continue in full force and effect upon transfer, if the insurer remains duly qualified to transact the business of insurance in such licensed State.

(d) EFFECTIVENESS OF OUTSTANDING POLICIES AND CONTRACTS.—

(1) IN GENERAL.—All outstanding insurance policies and annuities contracts of a redomesticating insurer shall remain in full force and effect and need not be endorsed as to the new domicile of the insurer, unless so ordered by the State insurance regulator of a licensed State, and then only in the case of outstanding policies and contracts whose owners reside in such licensed State.

(2) FORMS.—

(A) Applicable State law may require a redomesticating insurer to file new policy forms with the State insurance regulator of a licensed State on or before the effective date of the transfer.

(B) Notwithstanding subparagraph (A), a redomesticating insurer may use existing policy forms with appropriate endorsements to reflect the new domicile of the redomesticating insurer until the new policy forms are approved for use by the State insurance regulator of such licensed State.

(e) NOTICE.—A redomesticating insurer shall give notice of the proposed transfer to the State insurance regulator of each licensed State and shall file promptly any resulting amendments to corporate documents required to be filed by a foreign licensed mutual insurer with the insurance regulator of each such licensed State.

(f) PROCEDURAL REQUIREMENTS.—No mutual insurer may redomesticate to another State and reorganize into a mutual holding company pursuant to this section unless the State insurance regulator of the transferee domicile determines that the plan of reorganization of the insurer includes the following requirements:

(1) APPROVAL BY BOARD OF DIRECTORS AND POLICYHOLDERS.—The reorganization is approved by at least a majority of the board of directors of the mutual insurer and at least a majority of the policyholders who vote after notice, disclosure of the reorganization and the effects of the transaction on policyholder contractual rights, and reasonable opportunity to vote, in accordance with such notice, disclosure, and voting procedures as are approved by the State insurance regulator of the transferee domicile.

(2) CONTINUED VOTING CONTROL BY POLICYHOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—After the consummation of a reorganization, the policyholders of the reorganized insurer shall have the same voting rights with respect to the mutual holding company as they had before the reorganization with respect to the mutual insurer. With respect to an initial public offering of stock, the offering shall be conducted in compliance with applicable securities laws and in a manner approved by the State insurance regulator of the transferee domicile.

(3) AWARD OF STOCK OR GRANT OF OPTIONS TO OFFICERS AND DIRECTORS.—During the applicable period provided for under the State law of the transferee domicile following completion of an initial public offering, or for a period of six months if no such applicable period is provided, neither a stock holding company nor the converted insurer shall award any stock options or stock grants to persons who are elected officers or directors of the mutual holding company, the stock holding company, or the converted insurer, except with respect to any such awards or options to which a person is entitled as a policyholder and as approved by the State insurance regulator of the transferee domicile.

(4) POLICYHOLDER RIGHTS.—Upon reorganization into a mutual holding company, the contractual rights of the policyholders are preserved.

(5) FAIR AND EQUITABLE TREATMENT OF POLICYHOLDERS.—The reorganization is approved as fair and equitable to the policyholders by the insurance regulator of the transferee domicile.

SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMESTICATION.

(a) IN GENERAL.—Unless otherwise permitted by this subtitle, State laws of any transferor domicile that conflict with the purposes and intent of this subtitle are preempted, including but not limited to—

(1) any law that has the purpose or effect of impeding the activities of, taking any action against, or applying any provision of law or regulation to, any insurer or an affiliate of such insurer because that insurer or any affiliate plans to redomesticate, or has redomesticated, pursuant to this subtitle;

(2) any law that has the purpose or effect of impeding the activities of, taking action against, or applying any provision of law or regulation to, any insured or any insurance licensee or other intermediary because such person has procured insurance from or placed insurance with any insurer or affiliate of such insurer that plans to redomesticate, or has redomesticated, pursuant to this subtitle, but only to the extent that such law would treat such insured licensee or other intermediary differently than if the person procured insurance from, or placed insurance with, an insured licensee or other intermediary which had not redomesticated; and

(3) any law that has the purpose or effect of terminating, because of the redomestication of a mutual insurer pursuant to this subtitle, any certificate of authority, agent appointment or license, rate approval, or other approval, of any State insurance regulator or other State authority in existence immediately prior to the redomestication in any State other than the transferee domicile.

(b) DIFFERENTIAL TREATMENT PROHIBITED.—No State law, regulation, interpretation, or functional equivalent thereof, of a State other than a transferee domicile may treat a redomesticating or redomesticated insurer or any affiliate thereof any differently than an insurer operating in that State that is not a redomesticating or redomesticated insurer.

(c) LAWS PROHIBITING OPERATIONS.—If any licensed State fails to issue, delays the issuance of, or seeks to revoke an original or renewal certificate of authority of a redomesticated insurer promptly following redomestication, except on grounds and in a manner consistent with its past practices regarding the issuance of certificates of authority to foreign insurers that are not redomesticating, then the redomesticating insurer shall be exempt from any State law of the licensed State to the extent that such State law or the operation of such State law would

make unlawful, or regulate, directly or indirectly, the operation of the redomesticated insurer, except that such licensed State may require the redomesticated insurer to—

(1) comply with the unfair claim settlement practices law of the licensed State;

(2) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on licensed insurers or policyholders under the laws of the licensed State;

(3) register with and designate the State insurance regulator as its agent solely for the purpose of receiving service of legal documents or process;

(4) submit to an examination by the State insurance regulator in any licensed State in which the redomesticated insurer is doing business to determine the insurer's financial condition, if—

(A) the State insurance regulator of the transferee domicile has not begun an examination of the redomesticated insurer and has not scheduled such an examination to begin before the end of the 1-year period beginning on the date of the redomestication; and

(B) any such examination is coordinated to avoid unjustified duplication and repetition;

(5) comply with a lawful order issued in—

(A) a delinquency proceeding commenced by the State insurance regulator of any licensed State if there has been a judicial finding of financial impairment under paragraph (7); or

(B) a voluntary dissolution proceeding;

(6) comply with any State law regarding deceptive, false, or fraudulent acts or practices, except that if the licensed State seeks an injunction regarding the conduct described in this paragraph, such injunction must be obtained from a court of competent jurisdiction as provided in section 314(a);

(7) comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance regulator alleging that the redomesticating insurer is in hazardous financial condition or is financially impaired;

(8) participate in any insurance insolvency guaranty association on the same basis as any other insurer licensed in the licensed State; and

(9) require a person acting, or offering to act, as an insurance licensee for a redomesticated insurer in the licensed State to obtain a license from that State, except that such State may not impose any qualification or requirement that discriminates against a nonresident insurance licensee.

SEC. 314. OTHER PROVISIONS.

(a) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over litigation arising under this section involving any redomesticating or redomesticated insurer.

(b) SEVERABILITY.—If any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder of the section, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 315. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) COURT OF COMPETENT JURISDICTION.—The term ''court of competent jurisdiction'' means a court authorized pursuant to section 314(a) to adjudicate litigation arising under this subtitle.

(2) DOMICILE.—The term ''domicile'' means the State in which an insurer is incorporated, chartered, or organized.

(3) INSURANCE LICENSEE.—The term ''insurance licensee'' means any person holding a license under State law to act as insurance agent, subagent, broker, or consultant.

(4) INSTITUTION.—The term ''institution'' means a corporation, joint stock company, limited liability company, limited liability partnership, association, trust, partnership, or any similar entity.

(5) LICENSED STATE.—The term ''licensed State'' means any State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands in which the redomesticating insurer has a certificate of authority in effect immediately prior to the redomestication.

(6) MUTUAL INSURER.—The term ''mutual insurer'' means a mutual insurer organized under the laws of any State.

(7) PERSON.—The term ''person'' means an individual, institution, government or governmental agency, State or political subdivision of a State, public corporation, board, association, estate, trustee, or fiduciary, or other similar entity.

(8) POLICYHOLDER.—The term ''policyholder'' means the owner of a policy issued by a mutual insurer, except that, with respect to voting rights, the term means a member of a mutual insurer or mutual holding company granted the right to vote, as determined under applicable State law.

(9) REDOMESTICATED INSURER.—The term ''redomesticated insurer'' means a mutual insurer that has redomesticated pursuant to this subtitle.

(10) REDOMESTICATING INSURER.—The term ''redomesticating insurer'' means a mutual insurer that is redomesticating pursuant to this subtitle.

(11) REDOMESTICATION OR TRANSFER.—The term ''redomestication'' or ''transfer'' means the transfer of the domicile of a mutual insurer from one State to another State pursuant to this subtitle.

(12) STATE INSURANCE REGULATOR.—The term ''State insurance regulator'' means the principal insurance regulatory authority of a State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(13) STATE LAW.—The term ''State law'' means the statutes of any State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands and any regulation, order, or requirement prescribed pursuant to any such statute.

(14) TRANSFEREE DOMICILE.—The term ''transferee domicile'' means the State to which a mutual insurer is redomesticating pursuant to this subtitle.

(15) TRANSFEROR DOMICILE.—The term ''transferor domicile'' means the State from which a mutual insurer is redomesticating pursuant to this subtitle.

SEC. 316. EFFECTIVE DATE.

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

Subtitle C—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless, not later than 3 years after the date of the enactment of this Act, at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its State, if the producer's home State also awards such licenses on such a reciprocal basis, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the ''NAIC'') shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the NAIC's determination under this section and such court shall apply the standards set forth in section 706 of

title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect 2 years after the date on which such uniformity or reciprocity ceases to exist, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

(g) UNIFORM LICENSING.—Nothing in this section shall be construed to require any State to adopt new or additional licensing requirements to achieve the uniformity necessary to satisfy subsection (a)(1).

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the ''Association'').

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agent or instrumentality of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y–1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the NAIC.

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year period preceding the date on which such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—

(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are depository institutions or for their employees, agents, or affiliates.

(d) MEMBERSHIP CRITERIA.—

(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.

(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) SUSPENSION AND REVOCATION.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) OFFICE OF CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the ''Board'') for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) COMPOSITION.—

(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC.

(2) REQUIREMENT.—At least 4 of the members of the Board shall each have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of the enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with one-third of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL.—

(1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.—Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS.—

(1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) upon such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such subsection.

(b) ADOPTION AND AMENDMENT OF RULES.—

(1) FILING PROPOSED REGULATIONS WITH THE NAIC.—

(A) IN GENERAL.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) OTHER RULES AND AMENDMENTS INEFFECTIVE.—No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) INITIAL CONSIDERATION BY THE NAIC.—Not later than 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date, if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded not later than 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date on which the Association files proposed rules or amendments in accordance with paragraph (1), unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association shall take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or clause (ii) of this subparagraph, the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be a final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule, or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as a ''disciplinary action''), the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(1) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(A) determine whether the action should be taken;

(B) affirm, modify, or rescind the disciplinary sanction; or

(C) remand to the Association for further proceedings.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(A) the specific grounds on which the action is based exist in fact;

(B) the action is in accordance with applicable rules and regulations; and

(C) such rules and regulations are, and were, applied in a manner consistent with the purposes of this subtitle.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs that the NAIC incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) EXAMINATIONS.—The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) REPORT BY ASSOCIATION.—As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United

States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a), (b), and (c) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328 or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented, the following shall apply:

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the NAIC.

(2) PROCEDURES FOR OBTAINING NAIC APPOINTMENT RECOMMENDATIONS.—

(A) INITIAL DETERMINATION AND RECOMMENDATIONS.—After the date on which the provisions of subsection (a) take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the Senate, make the requisite appointments without considering the views of the NAIC.

(B) SUBSEQUENT APPOINTMENTS.—After the initial appointments, the NAIC shall provide a list of at least six recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least six recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) PRESIDENTIAL OVERSIGHT.—

(i) REMOVAL.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) SUSPENSION OF RULES OR ACTIONS.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(c) ANNUAL REPORT.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to the Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) PREEMPTION OF STATE LAWS.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted as provided in subsection (b).

(b) PROHIBITED ACTIONS.—No State shall—

(1) impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;

(2) impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency;

(3) impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different from the criteria for membership in the Association or renewal of such membership, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section; or

(4) implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(c) SAVINGS PROVISION.—Except as provided in subsections (a) and (b), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or other action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) COORDINATION WITH STATE INSURANCE REGULATORS.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) COORDINATION WITH THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) JURISDICTION.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) EXHAUSTION OF REMEDIES.—An aggrieved person shall be required to exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) HOME STATE.—The term ''home State'' means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

(2) INSURANCE.—The term ''insurance'' means any product, other than title insurance, defined or regulated as insurance by the appropriate State insurance regulatory authority.

(3) INSURANCE PRODUCER.—The term ''insurance producer'' means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(4) STATE.—The term ''State'' includes any State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(5) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

Subtitle D—Rental Car Agency Insurance Activities

SEC. 341. STANDARD OF REGULATION FOR MOTOR VEHICLE RENTALS.

(a) PROTECTION AGAINST RETROACTIVE APPLICATION OF REGULATORY AND LEGAL ACTION.—Except as provided in subsection (b), during the 3-year period beginning on the date of the enactment of this Act, it shall be a presumption that no State law imposes any licensing, appointment, or education requirements on any person who solicits the purchase of or sells insurance connected with, and incidental to, the lease or rental of a motor vehicle.

(b) PREEMINENCE OF STATE INSURANCE LAW.—No provision of this section shall be construed as altering the validity, interpretation, construction, or effect of—

(1) any State statute;

(2) the prospective application of any court judgment interpreting or applying any State statute; or

(3) the prospective application of any final State regulation, order, bulletin, or other statutorily authorized interpretation or action,

which, by its specific terms, expressly regulates or exempts from regulation any person who solicits the purchase of or sells insurance connected with, and incidental to, the short-term lease or rental of a motor vehicle.

(c) SCOPE OF APPLICATION.—This section shall apply with respect to—

(1) the lease or rental of a motor vehicle for a total period of 90 consecutive days or less; and

(2) insurance which is provided in connection with, and incidentally to, such lease or rental for a period of consecutive days not exceeding the lease or rental period.

(d) MOTOR VEHICLE DEFINED.—For purposes of this section, the term ''motor vehicle'' has the same meaning as in section 13102 of title 49, United States Code.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. PREVENTION OF CREATION OF NEW S&L HOLDING COMPANIES WITH COMMERCIAL AFFILIATES.

(a) IN GENERAL.—Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

''(9) PREVENTION OF NEW AFFILIATIONS BETWEEN S&L HOLDING COMPANIES AND COMMERCIAL FIRMS.—

''(A) IN GENERAL.—Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

''(i) under paragraph (1)(C) or (2) of this subsection; or

''(ii) for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956.

''(B) PREVENTION OF NEW COMMERCIAL AFFILIATIONS.—Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

''(C) PRESERVATION OF AUTHORITY OF EXISTING UNITARY S&L HOLDING COMPANIES.—Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on May 4, 1999, or that becomes a savings and loan holding company pursuant to an application pending before the Office on or before that date, and that—

''(i) meets and continues to meet the requirements of paragraph (3); and

''(ii) continues to control not fewer than 1 savings association that it controlled on May 4, 1999, or that it acquired pursuant to an application pending before the Office on or before that date, or the successor to such savings association.

''(D) CORPORATE REORGANIZATIONS PERMITTED.—This paragraph does not prevent a transaction that—

''(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

''(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

''(E) AUTHORITY TO PREVENT EVASIONS.—The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.

''(F) PRESERVATION OF AUTHORITY FOR FAMILY TRUSTS.—Subparagraphs (A) and (B) do not apply with respect to any trust that becomes a savings and loan holding company with respect to a savings association, if—

''(i) not less than 85 percent of the beneficial ownership interests in the trust are continuously owned, directly or indirectly, by or for the benefit of members of the same family, or their spouses, who are lineal descendants of common ancestors who controlled, directly or indirectly, such savings association on May 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999; and

''(ii) at the time at which such trust becomes a savings and loan holding company, such ancestors or lineal descendants, or spouses of such descendants, have directly or indirectly controlled the savings association continuously since May 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999.''.

(b) CONFORMING AMENDMENT.—Section 10(o)(5)(E) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)(5)(E)) is amended by striking '', except subparagraph (B)'' and inserting ''or (c)(9)(A)(ii)''.

(c) RULE OF CONSTRUCTION FOR CERTAIN APPLICATIONS.—

(1) IN GENERAL.—In the case of a company that—

(A) submits an application with the Director of the Office of Thrift Supervision before the date of the enactment of this Act to convert a State-chartered trust company controlled by such company on May 4, 1999, to a savings association; and

(B) controlled a subsidiary on May 4, 1999, that had submitted an application to the Director on September 2, 1998;

the company (including any subsidiary controlled by such company as of such date of enactment) shall be treated as having filed such conversion application with the Director before May 4, 1999, for purposes of section 10(c)(9)(C) of the Home Owners' Loan Act (as added by subsection (a)).

(2) DEFINITIONS.—For purposes of paragraph (1), the terms ''company'', ''control'', ''savings association'', and ''subsidiary'' have the meanings given those terms in section 10 of the Home Owners' Loan Act.

TITLE V—PRIVACY

Subtitle A—Disclosure of Nonpublic Personal Information

SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) PRIVACY OBLIGATION POLICY.—It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.

(b) FINANCIAL INSTITUTIONS SAFEGUARDS.—In furtherance of the policy in subsection (a), each agency or authority described in section 505(a) shall establish appropriate standards for the financial institutions subject to their jurisdiction relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

SEC. 502. OBLIGATIONS WITH RESPECT TO DISCLOSURES OF PERSONAL INFORMATION.

(a) NOTICE REQUIREMENTS.—Except as otherwise provided in this subtitle, a financial institution may not, directly or through any affiliate, disclose to a nonaffiliated third party any nonpublic personal information, unless such financial institution provides or has provided to the consumer a notice that complies with section 503.

(b) OPT OUT.—

(1) IN GENERAL.—A financial institution may not disclose nonpublic personal information to a nonaffiliated third party unless—

(A) such financial institution clearly and conspicuously discloses to the consumer, in writing or in electronic form or other form permitted by the regulations prescribed under section 504, that such information may be disclosed to such third party;

(B) the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and

(C) the consumer is given an explanation of how the consumer can exercise that nondisclosure option.

(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing nonpublic personal information to a nonaffiliated third party to perform services for or functions on behalf of the financial institution, including marketing of the financial institution's own products or services, or financial products or services offered pursuant to joint agreements between two or more financial institutions that comply with the requirements imposed by the regulations prescribed under section 504, if the financial institution fully discloses the providing of such information and enters into a contractual agreement with the third party that requires the third party to maintain the confidentiality of such information.

(c) LIMITS ON REUSE OF INFORMATION.—Except as otherwise provided in this subtitle, a nonaffiliated third party that receives from a financial institution nonpublic personal information under this section shall not, directly or through an affiliate of such receiving third party, disclose such information to any other person that is a nonaffiliated third party of both the financial institution and such receiving third party, unless such disclosure would be lawful if made directly to such other person by the financial institution.

(d) LIMITATIONS ON THE SHARING OF ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.—A financial institution shall not disclose, other than to a consumer reporting agency, an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(e) GENERAL EXCEPTIONS.—Subsections (a) and (b) shall not prohibit the disclosure of nonpublic personal information—

(1) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer, or in connection with—

(A) servicing or processing a financial product or service requested or authorized by the consumer;

(B) maintaining or servicing the consumer's account with the financial institution, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; or

(C) a proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer;

(2) with the consent or at the direction of the consumer;

(3)(A) to protect the confidentiality or security of the financial institution's records pertaining to the consumer, the service or product, or the transaction therein; (B) to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability; (C) for required institutional risk control, or for resolving customer disputes or inquiries; (D) to persons holding a legal or beneficial interest relating to the consumer; or (E) to persons acting in a fiduciary or representative capacity on behalf of the consumer;

(4) to provide information to insurance rate advisory organizations, guaranty funds or agencies, applicable rating agencies of the financial institution, persons assessing the institution's compliance with industry standards, and the institution's attorneys, accountants, and auditors;

(5) to the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978, to law enforcement agencies (including a Federal functional regulator, the Secretary of the Treasury with respect to subchapter II of chapter 53 of title 31, United States Code, and chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), a State insurance authority, or the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

(6)(A) to a consumer reporting agency in accordance with the Fair Credit Reporting Act, or (B) from a consumer report reported by a consumer reporting agency;

(7) in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or

(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena or summons by Federal, State, or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.

SEC. 503. DISCLOSURE OF INSTITUTION PRIVACY POLICY.

(a) DISCLOSURE REQUIRED.—At the time of establishing a customer relationship with a consumer and not less than annually during the continuation of such relationship, a financial institution shall provide a clear and conspicuous disclosure to such consumer, in writing or in electronic form or other form permitted by the regulations prescribed under section 504, of such financial institution's policies and practices with respect to—

(1) disclosing nonpublic personal information to affiliates and nonaffiliated third parties, consistent with section 502, including the categories of information that may be disclosed;

(2) disclosing nonpublic personal information of persons who have ceased to be customers of the financial institution; and

(3) protecting the nonpublic personal information of consumers.

Such disclosures shall be made in accordance with the regulations prescribed under section 504.

(b) INFORMATION TO BE INCLUDED.—The disclosure required by subsection (a) shall include—

(1) the policies and practices of the institution with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the institution, consistent with section 502 of this subtitle, and including—

(A) the categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided pursuant to section 502(e); and

(B) the policies and practices of the institution with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the financial institution;

(2) the categories of nonpublic personal information that are collected by the financial institution;

(3) the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501; and

(4) the disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act.

SEC. 504. RULEMAKING.

(a) REGULATORY AUTHORITY.—

(1) RULEMAKING.—The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury, the Securities and Exchange Commission, and the Federal Trade Commission shall each prescribe, after consultation as appropriate with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, such regulations as may be necessary to carry out the purposes of this subtitle with respect to the financial institutions subject to their jurisdiction under section 505.

(2) COORDINATION, CONSISTENCY, AND COMPARABILITY.—Each of the agencies and authorities required under paragraph (1) to prescribe regulations shall consult and coordinate with the other such agencies and authorities for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency and authority are consistent and comparable with the regulations prescribed by the other such agencies and authorities.

(3) PROCEDURES AND DEADLINE.—Such regulations shall be prescribed in accordance with applicable requirements of title 5, United States Code, and shall be issued in final form not later than 6 months after the date of the enactment of this Act.

(b) AUTHORITY TO GRANT EXCEPTIONS.—The regulations prescribed under subsection (a) may include such additional exceptions to subsections (a) through (d) of section 502 as are deemed consistent with the purposes of this subtitle.

SEC. 505. ENFORCEMENT.

(a) IN GENERAL.—This subtitle and the regulations prescribed thereunder shall be enforced by the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions and other persons subject to their jurisdiction under applicable law, as follows:

(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such savings associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers), by the Director of the Office of Thrift Supervision.

(2) Under the Federal Credit Union Act, by the Board of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity.

(3) Under the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker or dealer.

(4) Under the Investment Company Act of 1940, by the Securities and Exchange Commission with respect to investment companies.

(5) Under the Investment Advisers Act of 1940, by the Securities and Exchange Commission with respect to investment advisers registered with the Commission under such Act.

(6) Under State insurance law, in the case of any person engaged in providing insurance, by the applicable State insurance authority of the State in which the person is domiciled, subject to section 104 of this Act.

(7) Under the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (6) of this subsection.

(b) ENFORCEMENT OF SECTION 501.—

(1) IN GENERAL.—Except as provided in paragraph (2), the agencies and authorities described in subsection (a) shall implement the standards prescribed under section 501(b) in the same manner, to the extent practicable, as standards prescribed pursuant to section 39(a) of the Federal Deposit Insurance Act are implemented pursuant to such section.

(2) EXCEPTION.—The agencies and authorities described in paragraphs (3), (4), (5), (6), and (7) of subsection (a) shall implement the standards prescribed under section 501(b) by rule with respect to the financial institutions and other persons subject to their respective jurisdictions under subsection (a).

(c) ABSENCE OF STATE ACTION.—If a State insurance authority fails to adopt regulations to carry out this subtitle, such State shall not be eligible to override, pursuant to section 47(g)(2)(B)(iii) of the Federal Deposit Insurance Act, the insurance customer protection regulations prescribed by a Federal banking agency under section 47(a) of such Act.

(d) DEFINITIONS.—The terms used in subsection (a)(1) that are not defined in this subtitle or otherwise defined in section 3(s) of the Federal Deposit Insurance Act shall have the same meaning as given in section 1(b) of the International Banking Act of 1978.

SEC. 506. PROTECTION OF FAIR CREDIT REPORTING ACT.

(a) AMENDMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (d), by striking everything following the end of the second sentence; and

(2) by striking subsection (e) and inserting the following:

''(e) REGULATORY AUTHORITY.—

''(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraphs (1) and (2) of subsection (b), and the Board of Governors of the Federal Reserve System shall have authority to prescribe regulations consistent with such joint regulations with respect to bank holding companies and affiliates (other than depository institutions and consumer reporting agencies) of such holding companies.

''(2) The Board of the National Credit Union Administration shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraph (3) of subsection (b).''.

(b) CONFORMING AMENDMENT.—Section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)) is amended by striking paragraph (4).

(c) RELATION TO OTHER PROVISIONS.—Except for the amendments made by subsections (a) and (b), nothing in this title shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act, and no inference shall be drawn on the basis of the provisions of this title regarding whether information is transaction or experience information under section 603 of such Act.

SEC. 507. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle and the amendments made by this subtitle shall not be construed as superseding, altering, or affecting any statute, regulation, order, or interpretation in effect in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle and the amendments made by this subtitle, as determined by the Federal Trade Commission, after consultation with the agency or authority with jurisdiction under section 505(a) of either the person that initiated the complaint or that is the subject of the complaint, on its own motion or upon the petition of any interested party.

SEC. 508. STUDY OF INFORMATION SHARING AMONG FINANCIAL AFFILIATES.

(a) IN GENERAL.—The Secretary of the Treasury, in conjunction with the Federal functional regulators and the Federal Trade Commission, shall conduct a study of information sharing practices among financial institutions and their affiliates. Such study shall include—

(1) the purposes for the sharing of confidential customer information with affiliates or with nonaffiliated third parties;

(2) the extent and adequacy of security protections for such information;

(3) the potential risks for customer privacy of such sharing of information;

(4) the potential benefits for financial institutions and affiliates of such sharing of information;

(5) the potential benefits for customers of such sharing of information;

(6) the adequacy of existing laws to protect customer privacy;

(7) the adequacy of financial institution privacy policy and privacy rights disclosure under existing law;

(8) the feasibility of different approaches, including opt-out and opt-in, to permit customers to direct that confidential information not be shared with affiliates and nonaffiliated third parties; and

(9) the feasibility of restricting sharing of information for specific uses or of permitting customers to direct the uses for which information may be shared.

(b) CONSULTATION.—The Secretary shall consult with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, and also with financial services industry, consumer organizations and privacy groups, and other representatives of the general public, in formulating and conducting the study required by subsection (a).

(c) REPORT.—On or before January 1, 2002, the Secretary shall submit a report to the Congress containing the findings and conclusions of the study required under subsection (a), together with such recommendations for legislative or administrative action as may be appropriate.

SEC. 509. DEFINITIONS.

As used in this subtitle:

(1) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the same meaning as given in section 3 of the Federal Deposit Insurance Act.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Board of Directors of the Federal Deposit Insurance Corporation;

(D) the Director of the Office of Thrift Supervision;

(E) the National Credit Union Administration Board; and

(F) the Securities and Exchange Commission.

(3) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''financial institution'' means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956.

(B) PERSONS SUBJECT TO CFTC REGULATION.—Notwithstanding subparagraph (A), the term ''financial institution'' does not include any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act.

(C) FARM CREDIT INSTITUTIONS.—Notwithstanding subparagraph (A), the term ''financial institution'' does not include the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971.

(D) OTHER SECONDARY MARKET INSTITUTIONS.—Notwithstanding subparagraph (A), the term ''financial institution'' does not include institutions chartered by Congress specifically to engage in transactions described in section 502(e)(1)(C), as long as such institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(4) NONPUBLIC PERSONAL INFORMATION.—

(A) The term ''nonpublic personal information'' means personally identifiable financial information—

(i) provided by a consumer to a financial institution;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by the financial institution.

(B) Such term does not include publicly available information, as such term is defined by the regulations prescribed under section 504.

(C) Notwithstanding subparagraph (B), such term—

(i) shall include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any nonpublic personal information other than publicly available information; but

(ii) shall not include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any nonpublic personal information.

(5) NONAFFILIATED THIRD PARTY.—The term ''nonaffiliated third party'' means any entity that is not an affiliate of, or related by common ownership or affiliated by corporate control with, the financial institution, but does not include a joint employee of such institution.

(6) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(7) NECESSARY TO EFFECT, ADMINISTER, OR ENFORCE.—The term ''as necessary to effect, administer, or enforce the transaction'' means—

(A) the disclosure is required, or is a usual, appropriate, or acceptable method, to carry out the transaction or the product or service business of which the transaction is a part, and record or service or maintain the consumer's account in the ordinary course of providing the financial service or financial product, or to administer or service benefits or claims relating to the transaction or the product or service business of which it is a part, and includes—

(i) providing the consumer or the consumer's agent or broker with a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product; and

(ii) the accrual or recognition of incentives or bonuses associated with the transaction that are provided by the financial institution or any other party;

(B) the disclosure is required, or is one of the lawful or appropriate methods, to enforce the rights of the financial institution or of other persons engaged in carrying out the financial transaction, or providing the product or service;

(C) the disclosure is required, or is a usual, appropriate, or acceptable method, for insurance underwriting at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law; or

(D) the disclosure is required, or is a usual, appropriate or acceptable method, in connection with—

(i) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card, check, or account number, or by other payment means;

(ii) the transfer of receivables, accounts or interests therein; or

(iii) the audit of debit, credit or other payment information.

(8) STATE INSURANCE AUTHORITY.—The term ''State insurance authority'' means, in the case of any person engaged in providing insurance, the State insurance authority of the State in which the person is domiciled.

(9) CONSUMER.—The term ''consumer'' means an individual who obtains, from a financial institution, financial products or services which are to be used primarily for personal, family, or household purposes, and also means the legal representative of such an individual.

(10) JOINT AGREEMENT.—The term ''joint agreement'' means a formal written contract pursuant to which two or more financial institutions jointly offer, endorse, or sponsor a financial product or service, and as may be further defined in the regulations prescribed under section 504.

(11) CUSTOMER RELATIONSHIP.—The term ''time of establishing a customer relationship'' shall be defined by the regulations prescribed under section 504, and shall, in the case of a financial institution engaged in extending credit directly to consumers to finance purchases of goods or services, mean the time of establishing the credit relationship with the consumer.

SEC. 510. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date on which rules are required to be prescribed under section 504(a)(3), except—

(1) to the extent that a later date is specified in the rules prescribed under section 504; and

(2) that sections 504 and 506 shall be effective upon enactment.

Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this subtitle for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

(1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this subtitle to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

(e) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

(g) NONAPPLICABILITY TO COLLECTION OF CHILD SUPPORT JUDGMENTS.—No provision of this section shall be construed to prevent any State-licensed private investigator, or any officer, employee, or agent of such private investigator, from obtaining customer information of a financial institution, to the extent reasonably necessary to collect child support from a person adjudged to have been delinquent in his or her obligations by a Federal or State court, and to the extent that such action by a State-licensed private investigator is not unlawful under any other Federal or State law or regulation, and has been authorized by an order or judgment of a court of competent jurisdiction.

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except as provided in subsection (b), compliance with this subtitle shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act to enforce compliance with such Act.

(b) ENFORCEMENT BY OTHER AGENCIES IN CERTAIN CASES.—

(1) IN GENERAL.—Compliance with this subtitle shall be enforced under—

(A) section 8 of the Federal Deposit Insurance Act, in the case of—

(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;

(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

(B) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

(2) VIOLATIONS OF THIS SUBTITLE TREATED AS VIOLATIONS OF OTHER LAWS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this subtitle shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this subtitle, any other authority conferred on such agency by law.

SEC. 523. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 521 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 521 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle as determined by the Federal Trade Commission, after consultation with the agency or authority with jurisdiction under section 522 of either the person that initiated the complaint or that is the subject of the complaint, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 521.

SEC. 526. REPORTS.

(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the National Credit Union Administration, the Securities and Exchange Commission, appropriate Federal law enforcement agencies, and appropriate State insurance regulators, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in this subtitle in addressing attempts to obtain financial information by fraudulent means or by false pretenses.

(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(b) ANNUAL REPORT BY ADMINISTERING AGENCIES.—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on number and disposition of all enforcement actions taken pursuant to this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) CUSTOMER.—The term ''customer'' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term ''customer information of a financial institution'' means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

(3) DOCUMENT.—The term ''document'' means any information in any form.

(4) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''financial institution'' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term ''financial institution'' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p) of the Consumer Credit Protection Act).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—

(i) the terms ''broker'' and ''dealer'' have the same meanings as given in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(ii) the term ''investment adviser'' has the same meaning as given in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); and

(iii) the term ''investment company'' has the same meaning as given in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(D) CERTAIN PERSONS AND ENTITIES SPECIFICALLY EXCLUDED.—The term ''financial institution'' does not include any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act and does not include the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971.

(E) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.

TITLE VI—FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Federal Home Loan Bank System Modernization Act of 1999''.

SEC. 602. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) in paragraph (1), by striking ''term 'Board' means'' and inserting ''terms 'Finance Board' and 'Board' mean'';

(2) by striking paragraph (3) and inserting the following:

''(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the

United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

(3) by adding at the end the following new paragraph:

''(13) COMMUNITY FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'community financial institution' means a member—

''(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

''(ii) that has, as of the date of the transaction at issue, less than $500,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

''(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.''.

SEC. 603. SAVINGS ASSOCIATION MEMBERSHIP.

Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) is amended to read as follows:

''(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—After the end of the 6-month period beginning on the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.''.

SEC. 604. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(2) by striking ''(a) Each'' and inserting the following:

''(a) IN GENERAL.—

''(1) ALL ADVANCES.—Each'';

(3) by striking the second sentence and inserting the following:

''(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

''(A) providing funds to any member for residential housing finance; and

''(B) providing funds to any community financial institution for small businesses, small farms, and small agri-businesses.'';

(4) by striking ''A Bank'' and inserting the following:

''(3) COLLATERAL.—A Bank'';

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking ''Deposits'' and inserting ''Cash or deposits'';

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection), by striking the second sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following new subparagraph:

''(E) Secured loans for small business, agriculture, or securities representing a whole interest in such secured loans, in the case of any community financial institution.'';

(6) in paragraph (5)—

(A) in the second sentence, by striking ''and the Board'';

(B) in the third sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(C) by striking ''(5) Paragraphs (1) through (4)'' and inserting the following:

''(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)''; and

(7) by adding at the end the following:

''(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

''(6) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agriculture', 'small farm', and 'small agri-business' shall have the meanings given those terms by regulation of the Finance Board.''.

(b) CLERICAL AMENDMENT.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

''SEC. 10. ADVANCES TO MEMBERS.''.

(c) QUALIFIED THRIFT LENDER STATUS.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended by striking the 1st of the 2 subsections designated as subsection (e).

(d) FEDERAL HOME LOAN BANK ACCESS.—Section 10(m)(3)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(3)(B)) is amended—

(1) in clause (i), by striking subclause (III) and redesignating subclause (IV) as subclause (III); and

(2) by striking clause (ii) and inserting the following:

''(ii) ADDITIONAL RESTRICTIONS EFFECTIVE AFTER 3 YEARS.—Beginning 3 years after the date on which a savings association should have become a qualified thrift lender, or the date on which the savings association ceases to be a qualified thrift lender, as applicable, the savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity, unless that investment or activity—

''(I) would be permissible for the savings association if it were a national bank; and

''(II) is permissible for the savings association as a savings association.''.

SEC. 605. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, ''(other than a community financial institution)'' after ''institution'';

(2) in the matter immediately following paragraph (2)(C)—

(A) by striking ''An insured'' and inserting the following:

''(3) CERTAIN INSTITUTIONS.—An insured''; and

(B) by striking ''preceding sentence'' and inserting ''paragraph (2)''; and

(3) by adding at the end the following new paragraph:

''(4) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).''.

SEC. 606. MANAGEMENT OF BANKS.

(a) BOARD OF DIRECTORS.—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) in subsection (a), by striking ''and bona fide residents of the district in which such bank is located'' and inserting '', and each of whom shall be either a bona fide resident of the district in which such bank is located or an officer or director of a member of such bank located in that district'';

(2) in subsection (d), by striking the 1st sentence and inserting the following: ''The term of each director, whether elected or appointed, shall be 3 years. The board of directors of each Federal home loan bank and the Finance Board shall adjust the terms of members first elected or appointed after the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999 to ensure that the terms of the members of the board of directors are staggered with approximately ⅓ of the terms expiring each year.''; and

(3) by striking subsection (g) and inserting the following:

''(g) CHAIRPERSON AND VICE CHAIRPERSON.—

''(1) ELECTION.—The Chairperson and Vice Chairperson of the board of directors of each Federal home loan bank shall be elected by a majority of all the directors of such bank from among the directors of the bank.

''(2) TERMS.—The term of office of the Chairperson and the Vice Chairperson of the board of directors of a Federal home loan bank shall be 2 years.

''(3) ACTING CHAIRPERSON.—In the event of a vacancy in the position of Chairperson of the board of directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as Chairperson.

''(4) PROCEDURES.—The board of directors of each Federal home loan bank shall establish procedures, in the bylaws of such board, for designating an acting chairperson for any period during which the Chairperson and the Vice Chairperson are not available to carry out the requirements of that position for any reason and removing any person from any such position for good cause.''.

(b) COMPENSATION.—Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended—

(1) by striking ''(i) Each bank may pay its directors'' and inserting ''(i) DIRECTORS' COMPENSATION.—

''(1) IN GENERAL.—Subject to paragraph (2), each bank may pay its directors''; and

(2) by adding at the end the following new paragraph:

''(2) LIMITATION.—

''(A) IN GENERAL.—The annual salary of each of the following members of the board of directors of a Federal home loan bank may not exceed the amount specified:

''In the case of the—	***The annual compensation may not exceed—***
Chairperson	$25,000
Vice Chairperson	$20,000
All other members	$15,000.

''(B) ADJUSTMENT.—Beginning January 1, 2001, each dollar amount referred to in the table in subparagraph (A) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.

''(C) EXPENSES.—Subparagraph (A) shall not be construed as prohibiting the reimbursement of expenses incurred by members of the board of directors of any Federal home loan bank in connection with service on the board of directors.''.

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended—

(1) in subsection (a)—

(A) by striking '', but, except'' and all that follows through ''ten years'';

(B) by striking ''subject to the approval of the Board'' the first place that term appears;

(C) by striking ''and, by its Board of directors,'' and all that follows through ''agent of such bank,'' and inserting ''and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank''; and

(D) by striking ''Board of directors'' where such term appears in the penultimate sentence and inserting ''board of directors''; and

(2) in subsection (b), by striking ''loans banks'' and inserting ''loan banks''.

(e) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) ISSUANCE OF NOTICES OF VIOLATIONS.—Section 2B(a) of the Federal Home Loan Bank Act

(12 U.S.C. 1422b(a)) is amended by adding at the end the following new paragraphs:

''(5) To issue and serve a notice of charges upon a Federal home loan bank or upon any executive officer or director of a Federal home loan bank if, in the determination of the Finance Board, the Bank, executive officer, or director is engaging or has engaged in, or the Finance Board has reasonable cause to believe that the Bank, executive officer, or director is about to engage in an unsafe or unsound practice in conducting the business of the bank, or any conduct that violates any provision of this Act or any law, order, rule, or regulation or any condition imposed in writing by the Finance Board in connection with the granting of any application or other request by the Bank, or any written agreement entered into by the Bank with the agency, in accordance with the procedures provided in subsection (c) or (f) of section 1371 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Such authority includes the same authority to issue an order requiring a party to take affirmative action to correct conditions resulting from violations or practices or to limit activities of a Bank or any executive officer or director of a Bank as appropriate Federal banking agencies have to take with respect to insured depository institutions under paragraphs (6) and (7) of section 8(b) of the Federal Deposit Insurance Act, and to have all other powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and their executive officers and directors as the Office of Federal Housing Enterprise Oversight has to enforce the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act with respect to the Federal housing enterprises under subtitle C (other than section 1371) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(6) To address any insufficiencies in capital levels resulting from the application of section 5(f) of the Home Owners' Loan Act.

''(7) To act in its own name and through its own attorneys—

''(A) in enforcing any provision of this Act or any regulation promulgated under this Act; or

''(B) in any action, suit, or proceeding to which the Finance Board is a party that involves the Board's regulation or supervision of any Federal home loan bank.''.

(2) TECHNICAL AMENDMENT.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking ''Federal Home Loan Bank Board,'' and inserting ''Director of the Office of Thrift Supervision, the Federal Housing Finance Board,''.

(f) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the second sentence, by striking ''with the approval of the Board''; and

(B) in the third sentence, by striking '', subject to the approval of the Board,''.

(2) SECTION 10.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(A) in subsection (c)—

(i) in the first sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(ii) by striking the second sentence; and

(B) in subsection (d)—

(i) in the first sentence, by striking ''and the approval of the Board''; and

(ii) by striking ''Subject to the approval of the Board, any'' and inserting ''Any''.

(g) SECTION 16.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) in the third sentence—

(A) by striking ''net earnings'' and inserting ''previously retained earnings or current net earnings''; and

(B) by striking '', and then only with the approval of the Federal Housing Finance Board''; and

(2) by striking the fourth sentence.

(h) SECTION 18.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)) is amended by striking paragraph (4).

SEC. 607. RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

''(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

''(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.0 percent of the net earnings of that Bank (after deducting expenses relating to section 10(j) and operating expenses).

''(ii) ANNUAL DETERMINATION.—The Board annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of $300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations, in consultation with the Secretary of the Treasury.

''(iii) PAYMENT TERM ALTERATIONS.—The Board shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the Banks is equivalent to the value of an annuity referred to in clause (ii).

''(iv) TERM BEYOND MATURITY.—If the Board extends the term of payment obligations beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.0 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.0 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the Banks to the Treasury, the Finance Board shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 2000. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that Bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

SEC. 608. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended to read as follows:

''SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

''(a) REGULATIONS.—

''(1) CAPITAL STANDARDS.—Not later than 1 year after the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999, the Finance Board shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to meet—

''(A) the leverage requirement specified in paragraph (2); and

''(B) the risk-based capital requirements, in accordance with paragraph (3).

''(2) LEVERAGE REQUIREMENT.—

''(A) IN GENERAL.—The leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the total assets of the bank and shall be 5 percent.

''(B) TREATMENT OF STOCK AND RETAINED EARNINGS.—In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock and the amount of retained earnings shall be multiplied by 1.5, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio, except that a Federal home loan bank's total capital (determined without taking into account any such multiplier) shall not be less than 4 percent of the total assets of the bank.

''(3) RISK-BASED CAPITAL STANDARDS.—

''(A) IN GENERAL.—Each Federal home loan bank shall maintain permanent capital in an amount that is sufficient, as determined in accordance with the regulations of the Finance Board, to meet—

''(i) the credit risk to which the Federal home loan bank is subject; and

''(ii) the market risk, including interest rate risk, to which the Federal home loan bank is subject, based on a stress test established by the Finance Board that rigorously tests for changes in market variables, including changes in interest rates, rate volatility, and changes in the shape of the yield curve.

''(B) CONSIDERATION OF OTHER RISK-BASED STANDARDS.—In establishing the risk-based standard under subparagraph (A)(ii), the Finance Board shall take due consideration of any risk-based capital test established pursuant to section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) for the enterprises (as defined in that Act), with such modifications as the Finance Board determines to be appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

''(4) OTHER REGULATORY REQUIREMENTS.—The regulations issued by the Finance Board under paragraph (1) shall—

''(A) permit each Federal home loan bank to issue, with such rights, terms, and preferences, not inconsistent with this Act and the regulations issued hereunder, as the board of directors of that bank may approve, any 1 or more of—

''(i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares; and

''(ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares;

''(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank, and that a bank may not issue any stock other than as provided in this section;

''(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

''(D) provide the manner of disposition of outstanding stock held by, and the liquidation of any claims of the Federal home loan bank against, an institution that ceases to be a member of the bank, through merger or otherwise, or that provides notice of intention to withdraw from membership in the bank.

''(5) DEFINITIONS OF CAPITAL.—For purposes of determining compliance with the capital standards established under this subsection—

''(A) permanent capital of a Federal home loan bank shall include—

''(i) the amounts paid for the Class B stock; and

''(ii) the retained earnings of the bank (as determined in accordance with generally accepted accounting principles); and

''(B) total capital of a Federal home loan bank shall include—

''(i) permanent capital;

''(ii) the amounts paid for the Class A stock;

''(iii) consistent with generally accepted accounting principles, and subject to the regulation of the Finance Board, a general allowance

for losses, which may not include any reserves or allowances made or held against specific assets; and

''(iv) any other amounts from sources available to absorb losses incurred by the bank that the Finance Board determines by regulation to be appropriate to include in determining total capital.

''(6) TRANSITION PERIOD.—Notwithstanding any other provision of this Act, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the day before the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999, shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required by subsection (b) has been approved by the Finance Board and implemented by such bank.

''(b) CAPITAL STRUCTURE PLAN.—

''(1) APPROVAL OF PLANS.—Not later than 270 days after the date of publication by the Finance Board of final regulations in accordance with subsection (a), the board of directors of each Federal home loan bank shall submit for Finance Board approval a plan establishing and implementing a capital structure for such bank that—

''(A) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of the bank;

''(B) meets the requirements of subsection (c); and

''(C) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Finance Board.

''(2) APPROVAL OF MODIFICATIONS.—The board of directors of a Federal home loan bank shall submit to the Finance Board for approval any modifications that the bank proposes to make to an approved capital structure plan.

''(c) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

''(1) MINIMUM INVESTMENT.—

''(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require each member of the bank to maintain a minimum investment in the stock of the bank, the amount of which shall be determined in a manner to be prescribed by the board of directors of each bank and to be included as part of the plan.

''(B) INVESTMENT ALTERNATIVES.—

''(i) IN GENERAL.—In establishing the minimum investment required for each member under subparagraph (A), a Federal home loan bank may, in its discretion, include any 1 or more of the requirements referred to in clause (ii), or any other provisions approved by the Finance Board.

''(ii) AUTHORIZED REQUIREMENTS.—A requirement is referred to in this clause if it is a requirement for—

''(I) a stock purchase based on a percentage of the total assets of a member; or

''(II) a stock purchase based on a percentage of the outstanding advances from the bank to the member.

''(C) MINIMUM AMOUNT.—Each capital structure plan of a Federal home loan bank shall require that the minimum stock investment established for members shall be set at a level that is sufficient for the bank to meet the minimum capital requirements established by the Finance Board under subsection (a).

''(D) ADJUSTMENTS TO MINIMUM REQUIRED INVESTMENT.—The capital structure plan of each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust the minimum investment required of each member of that bank, as necessary to ensure that the bank remains in compliance with applicable minimum capital levels established by the Finance Board, and shall require each member to comply promptly with any adjustments to the required minimum investment.

''(2) TRANSITION RULE.—

''(A) IN GENERAL.—The capital structure plan of each Federal home loan bank shall specify the date on which it shall take effect, and may provide for a transition period of not longer than 3 years to allow the bank to come into compliance with the capital requirements prescribed under subsection (a), and to allow any institution that was a member of the bank on the date of the enactment of the Federal Home Loan Bank System Modernization Act of 1999, to come into compliance with the minimum investment required pursuant to the plan.

''(B) INTERIM PURCHASE REQUIREMENTS.—The capital structure plan of a Federal home loan bank may allow any member referred to in subparagraph (A) that would be required by the terms of the capital structure plan to increase its investment in the stock of the bank to do so in periodic installments during the transition period.

''(3) DISPOSITION OF SHARES.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank that terminates its membership or that provides notice of its intention to withdraw from membership in that bank.

''(4) CLASSES OF STOCK.—

''(A) IN GENERAL.—The capital structure plan of a Federal home loan bank shall afford each member of that bank the option of maintaining its required investment in the bank through the purchase of any combination of classes of stock authorized by the board of directors of the bank and approved by the Finance Board in accordance with its regulations.

''(B) RIGHTS REQUIREMENT.—A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by the bank, consistent with Finance Board regulations and market requirements.

''(C) REDUCED MINIMUM INVESTMENT.—The capital structure plan of a Federal home loan bank may provide for a reduced minimum stock investment for any member of that bank that elects to purchase Class B in a manner that is consistent with meeting the minimum capital requirements of the bank, as established by the Finance Board.

''(D) LIQUIDATION OF CLAIMS.—The capital structure plan of a Federal home loan bank shall provide for the liquidation in an orderly manner, as determined by the bank, of any claim of that bank against a member, including claims for any applicable prepayment fees or penalties resulting from prepayment of advances prior to stated maturity.

''(5) LIMITED TRANSFERABILITY OF STOCK.—The capital structure plan of a Federal home loan bank shall—

''(A) provide that any stock issued by that bank shall be available only to and held only by members of that bank and tradable only between that bank and its members; and

''(B) establish standards, criteria, and requirements for the issuance, purchase, transfer, retirement, and redemption of stock issued by that bank.

''(6) BANK REVIEW OF PLAN.—Before filing a capital structure plan with the Finance Board, each Federal home loan bank shall conduct a review of the plan by—

''(A) an independent certified public accountant, to ensure, to the extent possible, that implementation of the plan would not result in any write-down of the redeemable bank stock investment of its members; and

''(B) at least one major credit rating agency, to determine, to the extent possible, whether implementation of the plan would have any material effect on the credit ratings of the bank.

''(d) TERMINATION OF MEMBERSHIP.—

''(1) VOLUNTARY WITHDRAWAL.—Any member may withdraw from a Federal home loan bank if the member provides written notice to the bank of its intent to do so and if, on the date of withdrawal, there is in effect a certification by the Finance Board that the withdrawal will not cause the Federal Home Loan Bank System to fail to meet its obligation under section 21B(f)(2)(C) to contribute to the debt service for the obligations issued by the Resolution Funding Corporation. The applicable stock redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member may surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends and other membership rights commensurate with continuing stock ownership.

''(2) INVOLUNTARY WITHDRAWAL.—

''(A) IN GENERAL.—The board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to Finance Board regulations, it determines that—

''(i) the member has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

''(ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a Federal or State authority with regulatory and supervisory responsibility for the member.

''(B) STOCK DISPOSITION.—An institution, the membership of which is terminated in accordance with subparagraph (A)—

''(i) shall surrender redeemable stock to the Federal home loan bank, and shall receive in cash the par value of the stock, upon the expiration of the applicable notice period under subsection (a)(4)(A);

''(ii) shall receive any dividends declared on its redeemable stock, during the applicable notice period under subsection (a)(4)(A); and

''(iii) shall not be entitled to any other rights or privileges accorded to members after the date of the termination.

''(C) COMMENCEMENT OF NOTICE PERIOD.—With respect to an institution, the membership of which is terminated in accordance with subparagraph (A), the applicable notice period under subsection (a)(4) for each class of redeemable stock shall commence on the earlier of—

''(i) the date of such termination; or

''(ii) the date on which the member has provided notice of its intent to redeem such stock.

''(3) LIQUIDATION OF INDEBTEDNESS.—Upon the termination of the membership of an institution for any reason, the outstanding indebtedness of the member to the bank shall be liquidated in an orderly manner, as determined by the bank and, upon the extinguishment of all such indebtedness, the bank shall return to the member all collateral pledged to secure the indebtedness.

''(e) REDEMPTION OF EXCESS STOCK.—

''(1) IN GENERAL.—A Federal home loan bank, in its sole discretion, may redeem or repurchase, as appropriate, any shares of Class A or Class B stock issued by the bank and held by a member that are in excess of the minimum stock investment required of that member.

''(2) EXCESS STOCK.—Shares of stock held by a member shall not be deemed to be 'excess stock' for purposes of this subsection by virtue of a member's submission of a notice of intent to withdraw from membership or termination of its membership in any other manner.

''(3) PRIORITY.—A Federal home loan bank may not redeem any excess Class B stock prior to the end of the 5-year notice period, unless the member has no Class A stock outstanding that could be redeemed as excess.

''(f) IMPAIRMENT OF CAPITAL.—If the Finance Board or the board of directors of a Federal home loan bank determines that the bank has incurred or is likely to incur losses that result in or are expected to result in charges against the capital of the bank, the bank shall not redeem or repurchase any stock of the bank without the prior approval of the Finance Board while such charges are continuing or are expected to continue. In no case may a bank redeem or repurchase any applicable capital stock if, following the redemption, the bank would fail to satisfy any minimum capital requirement.

''(g) REJOINING AFTER DIVESTITURE OF ALL SHARES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution that divests all shares of stock in a Federal home loan bank may not, after such divestiture, acquire shares of any Federal home loan bank before the end of the 5-year period beginning on the date of the completion of such divestiture, unless the divestiture is a consequence of a transfer of membership on an uninterrupted basis between banks.

''(2) EXCEPTION FOR WITHDRAWALS FROM MEMBERSHIP BEFORE 1998.—Any institution that withdrew from membership in any Federal home loan bank before December 31, 1997, may acquire shares of a Federal home loan bank at any time after that date, subject to the approval of the Finance Board and the requirements of this Act.

''(h) TREATMENT OF RETAINED EARNINGS.—

''(1) IN GENERAL.—The holders of the Class B stock of a Federal home loan bank shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

''(2) EXCEPTION.—Except as specifically provided in this section or through the declaration of a dividend or a capital distribution by a Federal home loan bank, or in the event of liquidation of the bank, a member shall have no right to withdraw or otherwise receive distribution of any portion of the retained earnings of the bank.

''(3) LIMITATION.—A Federal home loan bank may not make any distribution of its retained earnings unless, following such distribution, the bank would continue to meet all applicable capital requirements.''.

TITLE VII—OTHER PROVISIONS

Subtitle A—ATM Fee Reform

SEC. 701. SHORT TITLE.

This subtitle may be cited as the ''ATM Fee Reform Act of 1999''.

SEC. 702. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended by adding at the end the following new paragraph:

''(3) FEE DISCLOSURES AT AUTOMATED TELLER MACHINES.—

''(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

''(i) the fact that a fee is imposed by such operator for providing the service; and

''(ii) the amount of any such fee.

''(B) NOTICE REQUIREMENTS.—

''(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer.

''(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction, except that during the period beginning on the date of the enactment of the Gramm-Leach-Bliley Act and ending on December 31, 2004, this clause shall not apply to any automated teller machine that lacks the technical capability to disclose the notice on the screen or to issue a paper notice after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

''(C) PROHIBITION ON FEES NOT PROPERLY DISCLOSED AND EXPLICITLY ASSUMED BY CONSUMER.—No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

''(i) the consumer receives such notice in accordance with subparagraph (B); and

''(ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

''(D) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

''(i) AUTOMATED TELLER MACHINE OPERATOR.—The term 'automated teller machine operator' means any person who—

''(I) operates an automated teller machine at which consumers initiate electronic fund transfers; and

''(II) is not the financial institution that holds the account of such consumer from which the transfer is made.

''(ii) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' includes a transaction that involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

''(iii) HOST TRANSFER SERVICES.—The term 'host transfer services' means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.''.

SEC. 703. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS WHEN ATM CARD IS ISSUED.

Section 905(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by inserting after paragraph (9) the following new paragraph:

''(10) a notice to the consumer that a fee may be imposed by—

''(A) an automated teller machine operator (as defined in section 904(d)(3)(D)(i)) if the consumer initiates a transfer from an automated teller machine that is not operated by the person issuing the card or other means of access; and

''(B) any national, regional, or local network utilized to effect the transaction.''.

SEC. 704. FEASIBILITY STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic fund transfer initiated by a consumer through the use of an automated teller machine—

(1) a notice to be provided to the consumer before the consumer is irrevocably committed to completing the transaction, which clearly states the amount of any fee that will be imposed upon the consummation of the transaction by—

(A) any automated teller machine operator (as defined in section 904(d)(3)(D)(i) of the Electronic Fund Transfer Act) involved in the transaction;

(B) the financial institution holding the account of the consumer;

(C) any national, regional, or local network utilized to effect the transaction; and

(D) any other party involved in the transfer; and

(2) the consumer to elect to consummate the transaction after receiving the notice described in paragraph (1).

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a) with regard to the notice requirement described in such subsection, the Comptroller General shall consider the following factors:

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

(3) The competitive impact any such notice requirement would have on various sizes and types of institutions, if implemented.

(4) The period of time that would be reasonable for implementing any such notice requirement.

(5) The extent to which consumers would benefit from any such notice requirement.

(6) Any other factor the Comptroller General determines to be appropriate in analyzing the feasibility of imposing any such notice requirement.

(c) REPORT TO THE CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, the manner in which such requirement should be implemented.

SEC. 705. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.

Section 910 of the Electronic Fund Transfer Act (15 U.S.C. 1693h) is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required to be posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 904(d)(3)(B)(i).''.

Subtitle B—Community Reinvestment

SEC. 711. CRA SUNSHINE REQUIREMENTS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 47, as added by section 305 of this Act, the following new section:

''SEC. 48. CRA SUNSHINE REQUIREMENTS.

''(a) PUBLIC DISCLOSURE OF AGREEMENTS.—Any agreement (as defined in subsection (e)) entered into after the date of the enactment of the Gramm-Leach-Bliley Act by an insured depository institution or affiliate with a nongovernmental entity or person made pursuant to or in connection with the Community Reinvestment Act of 1977 involving funds or other resources of such insured depository institution or affiliate—

''(1) shall be in its entirety fully disclosed, and the full text thereof made available to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution and to the public by each party to the agreement; and

''(2) shall obligate each party to comply with this section.

''(b) ANNUAL REPORT OF ACTIVITY BY INSURED DEPOSITORY INSTITUTION.—Each insured depository institution or affiliate that is a party to an agreement described in subsection (a) shall report to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution, not less frequently than once each year, such information as the Federal banking agency may by rule require relating to the following actions taken by the party pursuant to the agreement during the preceding 12-month period:

''(1) Payments, fees, or loans made to any party to the agreement or received from any

party to the agreement and the terms and conditions of the same.

''(2) Aggregate data on loans, investments, and services provided by each party in its community or communities pursuant to the agreement.

''(3) Such other pertinent matters as determined by regulation by the appropriate Federal banking agency with supervisory responsibility over the insured depository institution.

''(c) ANNUAL REPORT OF ACTIVITY BY NONGOVERNMENTAL ENTITIES.—

''(1) IN GENERAL.—Each nongovernmental entity or person that is not an affiliate of an insured depository institution and that is a party to an agreement described in subsection (a) shall report to the appropriate Federal banking agency with supervisory responsibility over the insured depository institution that is a party to such agreement, not less frequently than once each year, an accounting of the use of funds received pursuant to each such agreement during the preceding 12-month period.

''(2) SUBMISSION TO INSURED DEPOSITORY INSTITUTION.—A nongovernmental entity or person referred to in paragraph (1) may comply with the reporting requirement in such paragraph by transmitting the report to the insured depository institution that is a party to the agreement, and such insured depository institution shall promptly transmit such report to the appropriate Federal banking agency with supervisory authority over the insured depository institution.

''(3) INFORMATION TO BE INCLUDED.—The accounting referred to in paragraph (1) shall include a detailed, itemized list of the uses to which such funds have been made, including compensation, administrative expenses, travel, entertainment, consulting and professional fees paid, and such other categories, as determined by regulation by the appropriate Federal banking agency with supervisory responsibility over the insured depository institution.

''(d) APPLICABILITY.—Subsections (b) and (c) shall not apply with respect to any agreement entered into before the end of the 6-month period beginning on the date of the enactment of the Gramm-Leach-Bliley Act.

''(e) DEFINITIONS.—

''(1) AGREEMENT.—For purposes of this section, the term 'agreement'—

''(A) means—

''(i) any written contract, written arrangement, or other written understanding that provides for cash payments, grants, or other consideration with a value in excess of $10,000, or for loans the aggregate amount of principal of which exceeds $50,000, annually (or the sum of all such agreements during a 12-month period with an aggregate value of cash payments, grants, or other consideration in excess of $10,000, or with an aggregate amount of loan principal in excess of $50,000); or

''(ii) a group of substantively related contracts with an aggregate value of cash payments, grants, or other consideration in excess of $10,000, or with an aggregate amount of loan principal in excess of $50,000, annually;

made pursuant to, or in connection with, the fulfillment of the Community Reinvestment Act of 1977, at least 1 party to which is an insured depository institution or affiliate thereof, whether organized on a profit or not-for-profit basis; and

''(B) does not include—

''(i) any individual mortgage loan;

''(ii) any specific contract or commitment for a loan or extension of credit to individuals, businesses, farms, or other entities, if the funds are loaned at rates not substantially below market rates and if the purpose of the loan or extension of credit does not include any re-lending of the borrowed funds to other parties; or

''(iii) any agreement entered into by an insured depository institution or affiliate with a nongovernmental entity or person who has not commented on, testified about, or discussed with the institution, or otherwise contacted the institution, concerning the Community Reinvestment Act of 1977.

''(2) FULFILLMENT OF CRA.—For purposes of subparagraph (A), the term 'fulfillment' means a list of factors that the appropriate Federal banking agency determines have a material impact on the agency's decision—

''(A) to approve or disapprove an application for a deposit facility (as defined in section 803 of the Community Reinvestment Act of 1977); or

''(B) to assign a rating to an insured depository institution under section 807 of the Community Reinvestment Act of 1977.

''(f) VIOLATIONS.—

''(1) VIOLATIONS BY PERSONS OTHER THAN INSURED DEPOSITORY INSTITUTIONS OR THEIR AFFILIATES.—

''(A) MATERIAL FAILURE TO COMPLY.—If the party to an agreement described in subsection (a) that is not an insured depository institution or affiliate willfully fails to comply with this section in a material way, as determined by the appropriate Federal banking agency, the agreement shall be unenforceable after the offending party has been given notice and a reasonable period of time to perform or comply.

''(B) DIVERSION OF FUNDS OR RESOURCES.—If funds or resources received under an agreement described in subsection (a) have been diverted contrary to the purposes of the agreement for personal financial gain, the appropriate Federal banking agency with supervisory responsibility over the insured depository institution may impose either or both of the following penalties:

''(i) Disgorgement by the offending individual of funds received under the agreement.

''(ii) Prohibition of the offending individual from being a party to any agreement described in subsection (a) for a period of not to exceed 10 years.

''(2) DESIGNATION OF SUCCESSOR NONGOVERNMENTAL PARTY.—If an agreement described in subsection (a) is found to be unenforceable under this subsection, the appropriate Federal banking agency may assist the insured depository institution in identifying a successor nongovernmental party to assume the responsibilities of the agreement.

''(3) INADVERTENT OR DE MINIMIS REPORTING ERRORS.—An error in a report filed under subsection (c) that is inadvertent or de minimis shall not subject the filing party to any penalty.

''(g) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any appropriate Federal banking agency to enforce the provisions of any agreement described in subsection (a).

''(h) REGULATIONS.—

''(1) IN GENERAL.—Each appropriate Federal banking agency shall prescribe regulations, in accordance with paragraph (4), requiring procedures reasonably designed to ensure and monitor compliance with the requirements of this section.

''(2) PROTECTION OF PARTIES.—In carrying out paragraph (1), each appropriate Federal banking agency shall—

''(A) ensure that the regulations prescribed by the agency do not impose an undue burden on the parties and that proprietary and confidential information is protected; and

''(B) establish procedures to allow any nongovernmental entity or person who is a party to a large number of agreements described in subsection (a) to make a single or consolidated filing of a report under subsection (c) to an insured depository institution or an appropriate Federal banking agency.

''(3) PARTIES NOT SUBJECT TO REPORTING REQUIREMENTS.—The Board of Governors of the Federal Reserve System may prescribe regulations—

''(A) to prevent evasions of subsection (e)(1)(B)(iii); and

''(B) to provide further exemptions under such subsection, consistent with the purposes of this section.

''(4) COORDINATION, CONSISTENCY, AND COMPARABILITY.—In carrying out paragraph (1), each appropriate Federal banking agency shall consult and coordinate with the other such agencies for the purposes of assuring, to the extent possible, that the regulations prescribed by each such agency are consistent and comparable with the regulations prescribed by the other such agencies.''.

SEC. 712. SMALL BANK REGULATORY RELIEF.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the following new section:

''SEC. 809. SMALL BANK REGULATORY RELIEF.

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), any regulated financial institution with aggregate assets of not more than $250,000,000 shall be subject to routine examination under this title—

''(1) not more than once every 60 months for an institution that has achieved a rating of 'outstanding record of meeting community credit needs' at its most recent examination under section 804;

''(2) not more than once every 48 months for an institution that has received a rating of 'satisfactory record of meeting community credit needs' at its most recent examination under section 804; and

''(3) as deemed necessary by the appropriate Federal financial supervisory agency, for an institution that has received a rating of less than 'satisfactory record of meeting community credit needs' at its most recent examination under section 804.

''(b) NO EXCEPTION FROM CRA EXAMINATIONS IN CONNECTION WITH APPLICATIONS FOR DEPOSIT FACILITIES.—A regulated financial institution described in subsection (a) shall remain subject to examination under this title in connection with an application for a deposit facility.

''(c) DISCRETION.—A regulated financial institution described in subsection (a) may be subject to more frequent or less frequent examinations for reasonable cause under such circumstances as may be determined by the appropriate Federal financial supervisory agency.''.

SEC. 713. FEDERAL RESERVE BOARD STUDY OF CRA LENDING.

The Board of Governors of the Federal Reserve System shall conduct a comprehensive study, in consultation with the Chairman and Ranking Member of the Committee on Banking and Financial Services of the House of Representatives and the Chairman and Ranking Member of the Committee on Banking, Housing, and Urban Affairs of the Senate, of the Community Reinvestment Act of 1977, which shall focus on—

(1) the default rates;

(2) the delinquency rates; and

(3) the profitability;

of loans made in conformity with such Act, and report on the study to such Committees not later than March 15, 2000. Such report and supporting data shall also be made available by the Board of Governors of the Federal Reserve System to the public.

SEC. 714. PRESERVING THE COMMUNITY REINVESTMENT ACT OF 1977.

Nothing in this Act shall be construed to repeal any provision of the Community Reinvestment Act of 1977.

SEC. 715. RESPONSIVENESS TO COMMUNITY NEEDS FOR FINANCIAL SERVICES.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act), shall conduct a study of the extent to which adequate services are being provided as intended by the Community Reinvestment Act of 1977, including services in low- and moderate-income neighborhoods and for persons of modest means, as a result of the enactment of this Act.

(b) REPORTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall—

(A) before March 15, 2000, submit a baseline report to the Congress on the study conducted pursuant to subsection (a); and

(B) before the end of the 2-year period beginning on the date of the enactment of this Act, in consultation with the Federal banking agencies, submit a final report to the Congress on the study conducted pursuant to subsection (a).

(2) RECOMMENDATIONS.—The final report submitted under paragraph (1)(B) shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action with respect to institutions covered under the Community Reinvestment Act of 1977.

Subtitle C—Other Regulatory Improvements

SEC. 721. EXPANDED SMALL BANK ACCESS TO S CORPORATION TREATMENT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of—

(1) possible revisions to the rules governing S corporations, including—

(A) increasing the permissible number of shareholders in such corporations;

(B) permitting shares of such corporations to be held in individual retirement accounts;

(C) clarifying that interest on investments held for safety, soundness, and liquidity purposes should not be considered to be passive income;

(D) discontinuation of the treatment of stock held by bank directors as a disqualifying personal class of stock for such corporations; and

(E) improving Federal tax treatment of bad debt and interest deductions; and

(2) what impact such revisions might have on community banks.

(b) REPORT TO THE CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on the results of the study conducted under subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''S corporation'' has the meaning given the term in section 1361(a)(1) of the Internal Revenue Code of 1986.

SEC. 722. ''PLAIN LANGUAGE'' REQUIREMENT FOR FEDERAL BANKING AGENCY RULES.

(a) IN GENERAL.—Each Federal banking agency shall use plain language in all proposed and final rulemakings published by the agency in the Federal Register after January 1, 2000.

(b) REPORT.—Not later than March 1, 2001, each Federal banking agency shall submit to the Congress a report that describes how the agency has complied with subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''Federal banking agency'' has the meaning given that term in section 3 of the Federal Deposit Insurance Act.

SEC. 723. RETENTION OF ''FEDERAL'' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled ''An Act to enable national banking associations to increase their capital stock and to change their names or locations'', approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

''(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution, the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Gramm-Leach-Bliley Act may retain the term 'Federal' in the name of such institution if such institution remains an insured depository institution.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act.''.

SEC. 724. CONTROL OF BANKERS' BANKS.

Section 2(a)(5)(E)(i) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E)(i)) is amended by inserting ''1 or more'' before ''thrift institutions''.

SEC. 725. PROVISION OF TECHNICAL ASSISTANCE TO MICROENTERPRISES.

Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following new subtitle:

''Subtitle C—Microenterprise Technical Assistance and Capacity Building Program

''SEC. 171. SHORT TITLE.

''This subtitle may be cited as the 'Program for Investment in Microentrepreneurs Act of 1999', also referred to as the 'PRIME Act'.

''SEC. 172. DEFINITIONS.

''For purposes of this subtitle, the following definitions shall apply:

''(1) ADMINISTRATION.—The term 'Administration' means the Small Business Administration.

''(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Small Business Administration.

''(3) CAPACITY BUILDING SERVICES.—The term 'capacity building services' means services provided to an organization that is, or that is in the process of becoming, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs.

''(4) COLLABORATIVE.—The term 'collaborative' means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this subtitle.

''(5) DISADVANTAGED ENTREPRENEUR.—The term 'disadvantaged entrepreneur' means a microentrepreneur that is—

''(A) a low-income person;

''(B) a very low-income person; or

''(C) an entrepreneur that lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator.

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 103.

''(7) INTERMEDIARY.—The term 'intermediary' means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs as authorized under section 175.

''(8) LOW-INCOME PERSON.—The term 'low-income person' has the meaning given the term in section 103.

''(9) MICROENTREPRENEUR.—The term 'microentrepreneur' means the owner or developer of a microenterprise.

''(10) MICROENTERPRISE.—The term 'microenterprise' means a sole proprietorship, partnership, or corporation that—

''(A) has fewer than 5 employees; and

''(B) generally lacks access to conventional loans, equity, or other banking services.

''(11) MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM.—The term 'microenterprise development organization or program' means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs.

''(12) TRAINING AND TECHNICAL ASSISTANCE.—The term 'training and technical assistance' means services and support provided to disadvantaged entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services.

''(13) VERY LOW-INCOME PERSON.—The term 'very low-income person' means having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section).

''SEC. 173. ESTABLISHMENT OF PROGRAM.

''The Administrator shall establish a microenterprise technical assistance and capacity building grant program to provide assistance from the Administration in the form of grants to qualified organizations in accordance with this subtitle.

''SEC. 174. USES OF ASSISTANCE.

''A qualified organization shall use grants made under this subtitle—

''(1) to provide training and technical assistance to disadvantaged entrepreneurs;

''(2) to provide training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist such organizations and programs in developing microenterprise training and services;

''(3) to aid in researching and developing the best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs; and

''(4) for such other activities as the Administrator determines are consistent with the purposes of this subtitle.

''SEC. 175. QUALIFIED ORGANIZATIONS.

''For purposes of eligibility for assistance under this subtitle, a qualified organization shall be—

''(1) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

''(2) an intermediary;

''(3) a microenterprise development organization or program that is accountable to a local community, working in conjunction with a State or local government or Indian tribe; or

''(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

''SEC. 176. ALLOCATION OF ASSISTANCE; SUBGRANTS.

''(a) ALLOCATION OF ASSISTANCE.—

''(1) IN GENERAL.—The Administrator shall allocate assistance from the Administration under this subtitle to ensure that—

''(A) activities described in section 174(1) are funded using not less than 75 percent of amounts made available for such assistance; and

''(B) activities described in section 174(2) are funded using not less than 15 percent of amounts made available for such assistance.

''(2) LIMIT ON INDIVIDUAL ASSISTANCE.—No single person may receive more than 10 percent of the total funds appropriated under this subtitle in a single fiscal year.

''(b) TARGETED ASSISTANCE.—The Administrator shall ensure that not less than 50 percent of the grants made under this subtitle are used to benefit very low-income persons, including those residing on Indian reservations.

''(c) SUBGRANTS AUTHORIZED.—

''(1) IN GENERAL.—A qualified organization receiving assistance under this subtitle may provide grants using that assistance to qualified small and emerging microenterprise organizations and programs, subject to such rules and regulations as the Administrator determines to be appropriate.

''(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of assistance received by a qualified organization under this subtitle may be used for administrative expenses in connection with the making of subgrants under paragraph (1).

''(d) DIVERSITY.—In making grants under this subtitle, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural, and Indian tribal communities serving diverse populations.

''(e) PROHIBITION ON PREFERENTIAL CONSIDERATION OF CERTAIN SBA PROGRAM PARTICIPANTS.—In making grants under this subtitle, the Administrator shall ensure that any application made by a qualified organization that is a participant in the program established under section 7(m) of the Small Business Act does not receive preferential consideration over applications from other qualified organizations that are not participants in such program.

''SEC. 177. MATCHING REQUIREMENTS.

''(a) IN GENERAL.—Financial assistance under this subtitle shall be matched with funds from sources other than the Federal Government on the basis of not less than 50 percent of each dollar provided by the Administration.

''(b) SOURCES OF MATCHING FUNDS.—Fees, grants, gifts, funds from loan sources, and in-kind resources of a grant recipient from public or private sources may be used to comply with the matching requirement in subsection (a).

''(c) EXCEPTION.—

''(1) IN GENERAL.—In the case of an applicant for assistance under this subtitle with severe constraints on available sources of matching funds, the Administrator may reduce or eliminate the matching requirements of subsection (a).

''(2) LIMITATION.—Not more than 10 percent of the total funds made available from the Administration in any fiscal year to carry out this subtitle may be excepted from the matching requirements of subsection (a), as authorized by paragraph (1) of this subsection.

''SEC. 178. APPLICATIONS FOR ASSISTANCE.

''An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Administrator shall establish.

''SEC. 179. RECORDKEEPING.

''The requirements of section 115 shall apply to a qualified organization receiving assistance from the Administration under this subtitle as if it were a community development financial institution receiving assistance from the Fund under subtitle A.

''SEC. 180. AUTHORIZATION.

''In addition to funds otherwise authorized to be appropriated to the Fund to carry out this title, there are authorized to be appropriated to the Administrator to carry out this subtitle—

''(1) $15,000,000 for fiscal year 2000;

''(2) $15,000,000 for fiscal year 2001;

''(3) $15,000,000 for fiscal year 2002; and

''(4) $15,000,000 for fiscal year 2003.

''SEC. 181. IMPLEMENTATION.

''The Administrator shall, by regulation, establish such requirements as may be necessary to carry out this subtitle.''.

SEC. 726. FEDERAL RESERVE AUDITS.

The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following new section:

''SEC. 11B. ANNUAL INDEPENDENT AUDITS OF FEDERAL RESERVE BANKS AND BOARD.

''The Board shall order an annual independent audit of the financial statements of each Federal reserve bank and the Board.''.

SEC. 727. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The eighth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended by striking the last sentence and inserting the following: ''The Board of Governors of the Federal Reserve System, at its discretion, may furnish any report of examination or other confidential supervisory information concerning any State member bank or other entity examined under any other authority of the Board, to any Federal or State agency or authority with supervisory or regulatory authority over the examined entity, to any officer, director, or receiver of the examined entity, and to any other person that the Board determines to be proper.''.

(b) COMMODITY FUTURES TRADING COMMISSION.—The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(7)—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

''(G) the Commodity Futures Trading Commission;''; and

(2) in section 1112(e), by striking ''and the Securities and Exchange Commission'' and inserting '', the Securities and Exchange Commission, and the Commodity Futures Trading Commission''.

SEC. 728. GENERAL ACCOUNTING OFFICE STUDY OF CONFLICTS OF INTEREST.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study analyzing the conflict of interest faced by the Board of Governors of the Federal Reserve System between its role as a primary regulator of the banking industry and its role as a vendor of services to the banking and financial services industry.

(b) SPECIFIC CONFLICT REQUIRED TO BE ADDRESSED.—In the course of the study required under subsection (a), the Comptroller General shall address the conflict of interest faced by the Board of Governors of the Federal Reserve System between the role of the Board as a regulator of the payment system, generally, and its participation in the payment system as a competitor with private entities who are providing payment services.

(c) REPORT TO THE CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study required under this section, together with such recommendations for such legislative or administrative actions as the Comptroller General may determine to be appropriate, including recommendations for resolving any such conflict of interest.

SEC. 729. STUDY AND REPORT ON ADAPTING EXISTING LEGISLATIVE REQUIREMENTS TO ONLINE BANKING AND LENDING.

(a) STUDY REQUIRED.—The Federal banking agencies shall conduct a study of banking regulations regarding the delivery of financial services, including those regulations that may assume that there will be person-to-person contact during the course of a financial services transaction, and report their recommendations on adapting those existing requirements to online banking and lending.

(b) REPORT REQUIRED.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Federal banking agencies shall submit a report to the Congress on the findings and conclusions of the agencies with respect to the study required under subsection (a), together with such recommendations for legislative or regulatory action as the agencies may determine to be appropriate.

(c) DEFINITION.—For purposes of this section, the term ''Federal banking agencies'' means each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act).

SEC. 730. CLARIFICATION OF SOURCE OF STRENGTH DOCTRINE.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

''(t) LIMITATION ON CLAIMS.—

''(1) IN GENERAL.—No person may bring a claim against any Federal banking agency (including in its capacity as conservator or receiver) for the return of assets of an affiliate or controlling shareholder of the insured depository institution transferred to, or for the benefit of, an insured depository institution by such affiliate or controlling shareholder of the insured depository institution, or a claim against such Federal banking agency for monetary damages or other legal or equitable relief in connection with such transfer, if at the time of the transfer—

''(A) the insured depository institution is subject to any direction issued in writing by a Federal banking agency to increase its capital;

''(B) the insured depository institution is undercapitalized (as defined in section 38 of this Act); and

''(C) for that portion of the transfer that is made by an entity covered by section 5(g) of the Bank Holding Company Act of 1956 or section 45 of this Act, the Federal banking agency has followed the procedure set forth in such section.

''(2) DEFINITION OF CLAIM.—For purposes of paragraph (1), the term 'claim'—

''(A) means a cause of action based on Federal or State law that—

''(i) provides for the avoidance of preferential or fraudulent transfers or conveyances; or

''(ii) provides similar remedies for preferential or fraudulent transfers or conveyances; and

''(B) does not include any claim based on actual intent to hinder, delay, or defraud pursuant to such a fraudulent transfer or conveyance law.''.

SEC. 731. INTEREST RATES AND OTHER CHARGES AT INTERSTATE BRANCHES.

Section 44 of the Federal Deposit Insurance Act (12 U.S.C. 1831u) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

''(f) APPLICABLE RATE AND OTHER CHARGE LIMITATIONS.—

''(1) IN GENERAL.—In the case of any State that has a constitutional provision that sets a maximum lawful annual percentage rate of interest on any contract at not more than 5 percent above the discount rate for 90-day commercial paper in effect at the Federal reserve bank for the Federal reserve district in which such State is located, except as provided in paragraph (2), upon the establishment in such State of a branch of any out-of-State insured depository institution in such State under this section, the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan or discount made or upon any note, bill of exchange, financing transaction, or other evidence of debt by any insured depository institution whose home State is such State shall be equal to not more than the greater of—

''(A) the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction under the constitution, statutory, or other laws of the home State of the out-of-State insured depository institution establishing any such branch, without reference to this section, as such maximum interest rate or amount of interest may change from time to time; or

''(B) the maximum rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by a State insured depository institution chartered under the laws of such State or a national bank or Federal savings association whose main office is located in such State without reference to this section.

''(2) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as superseding or affecting—

''(A) the authority of any insured depository institution to take, receive, reserve, and charge interest on any loan made in any State other than the State referred to in paragraph (1); or

''(B) the applicability of section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980, section 5197 of the Revised Statutes of the United States, or section 27 of this Act.''.

SEC. 732. INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.

Section 5(a)(7) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(7)) is amended to read as follows:

''(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS, UPGRADES OF CERTAIN FOREIGN BANK AGENCIES AND BRANCHES.—Notwithstanding paragraphs (1) and (2), a foreign bank may—

''(A) with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

''(i) the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established; and

''(ii) in the case of a Federal or State branch, the branch receives only such deposits as would be permitted for a corporation organized under section 25A of the Federal Reserve Act; or

''(B) with the approval of the Board and the relevant licensing authority (the Comptroller in the case of a Federal branch or the appropriate State supervisor in the case of a State branch), upgrade an agency, or a branch of the type referred to in subparagraph (A)(ii), located in a State outside the foreign bank's home State, into a Federal or State branch if—

''(i) the establishment and operation of such branch is permitted by such State; and

''(ii) such agency or branch—

''(I) was in operation in such State on the day before September 29, 1994; or

''(II) has been in operation in such State for a period of time that meets the State's minimum age requirement permitted under section 44(a)(5) of the Federal Deposit Insurance Act.''.

SEC. 733. FAIR TREATMENT OF WOMEN BY FINANCIAL ADVISERS.

It is the sense of the Congress that individuals offering financial advice and products should offer such services and products in a nondiscriminatory, nongender-specific manner.

SEC. 734. MEMBERSHIP OF LOAN GUARANTEE BOARDS.

(a) EMERGENCY STEEL LOAN GUARANTEE BOARD.—Section 101(e) of the Emergency Steel Loan Guarantee Act of 1999 is amended—

(1) in paragraph (2), by inserting '', or a member of the Board of Governors of the Federal Reserve System designated by the Chairman'' after ''the Chairman of the Board of Governors of the Federal Reserve System''; and

(2) in paragraph (3), by inserting '', or a commissioner of the Securities and Exchange Commission designated by the Chairman'' before the period.

(b) EMERGENCY OIL AND GAS LOAN GUARANTEE BOARD.—Section 201(d)(2) of the Emergency Oil and Gas Guarantee Loan Program Act is amended—

(1) in subparagraph (B), by inserting '', or a member of the Board of Governors of the Federal Reserve System designated by the Chairman'' after ''the Chairman of the Board of Governors of the Federal Reserve System''; and

(2) in subparagraph (C), by inserting '', or a commissioner of the Securities and Exchange Commission designated by the Chairman'' before the period.

SEC. 735. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as ''(m)'' and inserting ''(m) [Repealed]''.

SEC. 736. ELIMINATION OF SAIF AND DIF SPECIAL RESERVES.

(a) SAIF SPECIAL RESERVE.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (L).

(b) DIF SPECIAL RESERVE.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is amended—

(1) by striking subsection (b); and

(2) in subsection (d)—

(A) by striking paragraph (4);

(B) in paragraph (6)(C)(i), by striking ''(6) and (7)'' and inserting ''(5), (6), and (7)''; and

(C) in paragraph (6)(C), by striking clause (ii) and inserting the following:

''(ii) by redesignating paragraph (8) as paragraph (5).''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on the date of the enactment of this Act.

SEC. 737. BANK OFFICERS AND DIRECTORS AS OFFICERS AND DIRECTORS OF PUBLIC UTILITIES.

Section 305(b) of the Federal Power Act (16 U.S.C. 825d(b)) is amended—

(1) by striking ''(b) After six'' and inserting the following:

''(b) INTERLOCKING DIRECTORATES.—

''(1) IN GENERAL.—After 6''; and

(2) by adding at the end the following:

''(2) APPLICABILITY.—

''(A) IN GENERAL.—In the circumstances described in subparagraph (B), paragraph (1) shall not apply to a person that holds or proposes to hold the positions of—

''(i) officer or director of a public utility; and

''(ii) officer or director of a bank, trust company, banking association, or firm authorized by law to underwrite or participate in the marketing of securities of a public utility.

''(B) CIRCUMSTANCES.—The circumstances described in this subparagraph are that—

''(i) a person described in subparagraph (A) does not participate in any deliberations or decisions of the public utility regarding the selection of a bank, trust company, banking association, or firm to underwrite or participate in the marketing of securities of the public utility, if the person serves as an officer or director of a bank, trust company, banking association, or firm that is under consideration in the deliberation process;

''(ii) the bank, trust company, banking association, or firm of which the person is an officer or director does not engage in the underwriting of, or participate in the marketing of, securities of the public utility of which the person holds the position of officer or director;

''(iii) the public utility for which the person serves or proposes to serve as an officer or director selects underwriters by competitive procedures; or

''(iv) the issuance of securities the public utility for which the person serves or proposes to serve as an officer or director has been approved by all Federal and State regulatory agencies having jurisdiction over the issuance.''.

SEC. 738. APPROVAL FOR PURCHASES OF SECURITIES.

Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c–1) is amended to read as follows:

''Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank based on a determination that the purchase is a sound investment for the bank irrespective of the fact that an affiliate of the bank is a principal underwriter of the securities.''.

SEC. 739. OPTIONAL CONVERSION OF FEDERAL SAVINGS ASSOCIATIONS.

Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following new paragraph:

''(5) CONVERSION TO NATIONAL OR STATE BANK.—

''(A) IN GENERAL.—Any Federal savings association chartered and in operation before the date of the enactment of the Gramm-Leach-Bliley Act, with branches in operation before such date of enactment in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency or the appropriate State bank supervisor, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before such date of enactment in 1 or more States, but only if each resulting national or State bank will meet all financial, management, and capital requirements applicable to the resulting national or State bank.

''(B) DEFINITIONS.—For purposes of this paragraph, the terms 'State bank' and 'State bank supervisor' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act.''.

SEC. 740. GRAND JURY PROCEEDINGS.

Section 3322(b) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''Federal or State'' before ''financial institution''; and

(2) in paragraph (2), by inserting ''at any time during or after the completion of the investigation of the grand jury,'' before ''upon''.

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

From the Committee on Banking and Financial Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JAMES A. LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
RICK LAZIO,
SPENCER BACHUS,
MICHAEL N. CASTLE,
JOHN J. LAFALCE,
BRUCE F. VENTO,

As additional conferees from the Committee on Banking and Financial Services, for consideration of titles I, III (except section 304), IV, and VII of the Senate bill, and title I of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
CAROL B. MALONEY,

As additional conferees from the Committee on Banking and Financial Services, for consideration of title V of the Senate bill, and title II of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
CAROL B. MALONEY,
JAMES H. MALONEY,

As additional conferees from the Committee on Banking and Financial Service, for consideration of title II of the Senate bill, and title III of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
CAROL B. MALONEY,
NYDIA M. VELÁZQUEZ,
DARLENE HOOLEY,

As additional conferees from the Committee on Banking and Financial Services, for consideration of title VI of the Senate bill, and title IV of the House amendment, and modifications committed to conference:

CAROL B. MALONEY,
LUIS V. GUTIERREZ,
KEN BENTSEN,

As additional conferees from the Committee on Banking and Financial Services, for consideration of section 304 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
GARY L. ACKERMAN,

From the Committee on Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL G. OXLEY,
BILLY TAUZIN,

PAUL GILLMOR,
JAMES GREENWOOD,
CHRIS COX,
STEVE LARGENT,
BRIAN BILBRAY
E. TOWNS,
DIANA DEGETTE,
LOIS CAPPS,

Provided that Mr. Rush is appointed in lieu of Mrs. Capps for consideration of section 316 of the Senate bill:

BOBBY L. RUSH,

From the Committee on Agriculture, for consideration of title V of the House amendment, and modifications committed to conference:

LARRY COMBEST,
THOMAS W. EWING,
CHARLES W. STENHOLM,

From the Committee on the Judiciary, for consideration of sections 104(a), 104(d)(3), and 104(f)(2) of the Senate bill, and sections 104(a)(3), 104(b)(3)(A), 104(b)(4)(B), 136(b), 136(d)–(e), 141–44, 197, 301, and 306 of the House amendment, and modifications committed to conference:

HENRY HYDE,
GEORGE W. GEKAS,

From the Committee on Banking and Financial Services, for consideration of section 101 of the Senate bill and section 101 of the House amendment: Mr. King is appointed in lieu of Mr. Bachus; Mr. Royce is appointed in lieu of Mr. Castle:

PETER T. KING,
ED ROYCE,

From the Committee on Commerce, for consideration of section 101 of the Senate bill and section 101 of the House amendment: Mrs. Wilson is appointed in lieu of Mr. Largent; Mr. Fossella is appointed in lieu of Mr. Bilbray:

HEATHER WILSON,
VITO FOSSELLA,
Managers on the Part of the House.

PHIL GRAMM,
CONNIE MACK,
ROBERT F. BENNETT,
ROD GRAMS,
WAYNE ALLARDS,
MICHAEL B. ENZI,
CHUCK HAGEL,
RICK SANTORUM
JIM BUNNING,
MIKE CRAPO
PAUL SARBANES,
CHRISTOPHER J. DODD,
JOHN F. KERRY,
TIM JOHNSON,
JACK REED,
CHARLES, SCHUMER,
EVAN BAYH
JOHN EDWARDS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 900), to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the house amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

TITLE I—FACILITATING AFFILIATIONS AMONG BANKS, SECURITIES FIRMS, AND INSURANCE COMPANIES

The legislation approved by the Conference Managers eliminates many Federal and State law barriers to affiliations among banks and securities firms, insurance companies, and other financial service providers. The House and Senate bills established an identical statutory framework (except for minor drafting differences) pursuant to which full affiliations can occur between banks and securities firms, insurance companies, and other financial companies. The Conferees adopted this framework. Furthermore, the legislation provides financial organizations with flexibility in structuring these new financial affiliations through a holding company structure, or a financial subsidiary (with certain prudential limitations on activities and appropriate safeguards). Reflected in the legislation is the determination made by both Houses to preserve the role of the Board of Governors of the Federal Reserve System (the ''Federal Reserve Board'' or the ''Board'') as the umbrella supervisor for holding companies, but to incorporate a system of functional regulation designed to utilize the strengths of the various Federal and State financial supervisors. Incorporating provisions found in both the House and Senate bills, the legislation establishes a mechanism for coordination between the Federal Reserve Board and the Secretary of the Treasury (''the Secretary'') regarding the approval of new financial activities for both holding companies and national bank financial subsidiaries. The legislation enhances safety and soundness and improves access to financial services by requiring that banks may not participate in the new financial affiliations unless the banks are well capitalized and well managed. The appropriate regulators are given clear authority to address any failure to maintain these safety and soundness standards in a prompt manner. The legislation also requires that Federal bank regulators prohibit banks from participating in the new financial affiliations if, at the time of certification, any bank affiliate had received a less than ''satisfactory'' Community Reinvestment Act of 1977 (''CRA'') rating as of its most recent examination.

Subtitle A—Financial Affiliations

Senate Position: The Senate bill contains provisions repealing restrictions in the Glass-Steagall Act and the Bank Holding Company Act of 1956 (''BHCA'') on affiliations involving securities firms and insurance companies, respectively. The Senate bill establishes a new framework in section 4 of the BHCA for bank holding companies to engage in financial activities. It does not create a separate designation for bank holding companies engaged in the new financial activities but it does require that the subsidiary insured depository institutions of such holding companies be well capitalized and well managed in order to take advantage of the new activities. In the event that a bank holding company's subsidiary depository institutions fall out of compliance, a ''cure'' procedure is established. The Senate bill authorizes bank holding companies to engage in activities that the Federal Reserve Board has determined to be financial in nature and incidental to such financial activities. It also authorizes qualifying bank holding companies to engage in activities that the Federal Reserve Board determines are complementary to financial activities, or any other service that the Federal Reserve Board determines not to pose a substantial risk to the safety and soundness of depository institutions or the financial system generally. It contains a list of pre-approved activities that includes merchant banking and insurance company portfolio investment activities. There is also a grandfather provision for the commodities activities engaged in by a company as of September 30, 1997, if that company becomes a bank holding company after the date of enactment.

House Position: The House bill also repeals the restrictions contained in the Glass-Steagall Act on affiliations between banks and securities firms engaged in underwriting and in the BHCA on affiliations between banks and insurance companies and insurance agents. It creates a new section 6 of the BHCA which authorizes new financial activities for bank holding companies that qualify as ''financial holding companies.'' In order for a bank holding company to qualify as a financial holding company (''FHC''), its subsidiary depository institutions must be well managed, well capitalized, and have received at least a ''satisfactory'' CRA rating as of their last examination. In the event that an FHC falls out of compliance, a ''cure'' procedure is established. It authorizes FHCs to engage in activities that the Federal Reserve Board has determined to be financial in nature, incidental to such financial activities or complementary to financial activities to the extent that the amount of such complementary activities remains small. It contains a list of pre-approved activities that includes investment banking and insurance company portfolio investment activities. The House bill also authorizes FHCs to engage in developing activities to a limited extent. A ten-year grandfather is included for the nonfinancial activities of companies that become bank holding companies after enactment of this legislation and are predominantly financial in nature at the time they become FHCs.

Conference Substitute: The Conferees acceded to the Senate by agreeing to amend section 4 of the BHCA to add a series of new subsections that contain the framework for engaging in new financial activities. The Conferees have acceded to the House in designating as FHCs those bank holding companies qualifying to engage in the new financial activities.

New section 4(k) permits bank holding companies that qualify as FHCs to engage in activities, and acquire companies engaged in activities, that are financial in nature or incidental to such financial activities. FHCs are also permitted to engage in activities that are complementary to financial activities if the Federal Reserve Board determines that the activity does not pose a substantial risk to the safety or soundness of depository institutions or the financial system in general.

Permitting banks to affiliate with firms engaged in financial activities represents a significant expansion from the current requirement that bank affiliates may only be engaged in activities that are closely related to banking. The Board has primary jurisdiction for determining what activities are financial in nature, incidental to financial in nature, or complementary. The Board may act by regulation or order. In determining what activities are financial in nature or incidental, the Federal Reserve Board must notify the Secretary of applications or requests to engage in new financial activities. The Federal Reserve Board may not determine that an activity is financial or incidental to a financial activity if the Secretary objects. The Secretary may also propose to the Federal Reserve Board that the Board find that

a particular activity is financial in nature or incidental to a financial activity. A similar procedure is included in the legislation with regard to the determination of financial activities and activities that are incidental to financial activities for financial subsidiaries of national banks. The intent of the Conferees is that the Federal Reserve Board and the Secretary of the Treasury will establish a consultative process that will negate the need for either agency to veto a proposal of the other agency. Establishing such a process should bring balance to the determinations regarding the type of activities that are financial and limit regulatory arbitrage.

Section 4(k) contains a list of activities that are considered to be financial in nature. An FHC may engage in the activities on this list without obtaining prior approval from the Federal Reserve Board. Notice must be given to the Federal Reserve Board not later than 30 days after the activity is commenced or a company is acquired. The list includes securities underwriting, dealing, and market making without any revenue limitation such as sponsoring and distributing all types of mutual funds and investment companies. Other activities include insurance underwriting and agency activities, merchant banking, and insurance company portfolio investments. The reference to ''. . . insuring, guaranteeing or indemnifying against . . . illness,'' is meant to include activities commonly thought of as health insurance, including such activities when provided by companies such as Blue Cross and Blue Shield organizations which are licensed under State laws to provide health insurance benefits in consideration of the payment of premiums or subscriber contributions. Such reference is not meant to include the activity of directly providing health care on a basis other than to the extent that it may be incidental to the business of insurance as defined in section 4(k)(4)(B) of the BHCA.

Merchant banking

The authorization of merchant banking activities as provided in new section 4(k)(4)(H) of the BHCA is designed to recognize the essential role that these activities play in modern finance and permits an FHC that has a securities affiliate or an affiliate of an insurance company engaged in underwriting life, accident and health, or property and casualty insurance, or providing and issuing annuities, to conduct such activities. Under this provision, the FHC may directly or indirectly acquire or control any kind of ownership interest (including debt and equity securities, partnership interests, trust certificates, or other instruments representing ownership) in an entity engaged in any kind of trade or business whatsoever. The FHC may make such acquisition whether acting as principal, on behalf of one or more entities (e.g., as adviser to a fund, regardless of whether the FHC is also an investor in the fund), including entities that the FHC controls (other than a depository institution or a subsidiary of a depository institution), or otherwise.

Section 122 provides that after a 5 year period from the date of enactment, the Board and the Secretary may jointly adopt rules permitting financial subsidiaries to engage in the activities under section 4(k)(4)(H) of the BHCA subject to the conditions that the agencies may jointly determine.

Insurance company portfolio investments

New section 4(k)(4)(I) of the BHCA recognizes that as part of the ordinary course of business, insurance companies frequently invest funds received from policyholders by acquiring most or all the shares of stock of a company that may not be engaged in a financial activity. These investments are made in the ordinary course of business pursuant to state insurance laws governing investments by insurance companies, and are subject to ongoing review and approval by the applicable state regulator. Section 4(k)(4)(I) permits an insurance company that is affiliated with a depository institution to continue to directly or indirectly acquire or control any kind of ownership interest in any company if certain requirements are met. The shares held by such a company: (i) must not be acquired or held by a depository institution or a subsidiary of a depository institution; (ii) must be acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty (other than credit-related insurance) or in providing and issuing annuities; and (iii) must represent an investment made in the ordinary course of business of such insurance company in accordance with relevant state law governing such investments. In addition, during the period such ownership interests are held, the FHC must not routinely manage or operate the portfolio company except as may be necessary or required to obtain a reasonable return on the investment. To the extent an FHC participates in the management or operation of a portfolio company, such participation would ordinarily be for the purpose of safeguarding the investment of the insurance company in accordance with the applicable requirements of state insurance law. This is irrespective of any overlap between board members and officers of the FHC and the portfolio company.

CONDITIONS TO ENGAGE IN NEW ACTIVITIES

New section 4(l) of the BHCA establishes the requirements for permitting a bank holding company to engage in the new financial activities and affiliations. A bank holding company may elect to become a financial holding company if all of its subsidiary banks are well capitalized and well managed. A bank holding company that meets such requirements may file a certification to that effect with the Board and a declaration that the company chooses to be an FHC.

After the filing of such a declaration and certification, an FHC may engage either de novo, or through an acquisition, in any activity that has been determined by the Board to be financial in nature or incidental to such financial activity. FHCs may engage in activities on the preapproved list of financial activities contained in section 4(k) of the BHCA and any other financial activity approved by the Board without prior notice. Complementary activities, however, must be approved by the Board on a case-by-case basis under the notice procedures contained in section 4(j) of the BHCA.

The legislation also amends the CRA to provide that an election of a bank holding company to become an FHC shall not be effective if the Board finds that as of the date of the election not all of the subsidiary insured depository institutions of the holding company had received a ''satisfactory'' or better CRA rating at their most recent CRA examinations. In addition, the legislation amends the BHCA to require the appropriate Federal banking agency to prohibit an FHC, or a bank through a financial subsidiary, from commencing any new activities or acquiring any companies under sections 4(k) or (n) of the BHCA, section 5136A(a) of the Revised Statutes of the United States, or section 46(a) of the Federal Deposit Insurance Act, in the event that the bank or any of its insured depository institution affiliates or any insured depository institution affiliate of the FHC fails to have at least a ''satisfactory'' CRA rating at the time of its last examination. It is the most recent rating alone that shall be looked to by the regulator in connection with these provisions. This provision does not authorize any agency to require the divestiture of any company already owned by the FHC prior to the time that the prohibition becomes effective or to limit in any way any activity already engaged in by the FHC prior to that time. The prohibition ceases to apply once all of the insured depository institutions controlled by the FHC or the bank and all of its insured depository institution affiliates have restored their CRA performance rating to at least the ''satisfactory'' level.

This provision applies to the ownership and activities of financial subsidiaries of national banks to the same extent as it applies to FHCs. It also applies in the same way to subsidiaries held by insured State banks subject to newly added section 46(a) of the Federal Deposit Insurance Act.

OPERATION OF STATE LAW

Senate Position: The Senate bill establishes in section 104 the parameters for the appropriate balance between Federal and State regulation of the activities and affiliations allowed under this legislation.

House Position: The House provision is similar, with parallel provisions contained in sections 104, 301, and 302 of the House bill.

Conference Substitute: The House agreed to incorporate its sections 301 and 302 into section 104, and the Senate agreed to adopt the language of the House's section 302. The House discrimination standard was adopted with modifications, and the Conferees agreed to incorporate House provisions protecting the ability of the States to require restoration of an entity's capital, and restricting changes in stock ownership of demutualizing insurers, as modified. The House receded on its provision specifically addressing a North Carolina Blue-Cross Blue-Shield organization, as the State laws governing those types of entities would not be preempted so long as the State laws do not discriminate, as set forth in the legislation.

This section reaffirms the McCarran-Ferguson Act, recognizing the primacy and legal authority of the States to regulate insurance activities of all persons. No persons are permitted to engage in the business of insurance unless they are licensed by the States, as required under State law. States are not allowed to prevent certain affiliations or activities or discriminate against depository institutions in providing such insurance licenses.

In general, States are not allowed to prevent or restrict affiliations permitted under Federal law. With respect to an affiliation by an insurer, States may collect information, and the insurer's State of domicile may take action on the affiliation (including approval or disapproval), but only within 60 days of receiving notice of the affiliation, and only if the actions do not discriminate against the insurer based on an association with a depository institution. An affiliating insurer's State of domicile may require capital restoration to the level required under State law, so long as such request is made within 60 days of notice of the affiliation. Any State, as permitted under State law, may restrict changes in ownership of a demutualizing insurer so long as the restrictions are not discriminatory as set forth in the legislation. Section 104(c)(2)(C) means that State laws and State regulators shall not discriminate against depository institutions or their affiliates with respect to acquiring or otherwise changing the ownership of stock in newly demutualized insurance companies relative to other persons.

Except with respect to insurance, States may not prevent or restrict a depository institution or affiliate thereof from engaging in any activity set forth under the Gramm-Leach-Bliley Act. With respect to insurance

sales, solicitations, and cross-marketing, States may not prevent or significantly interfere with the activities of depository institutions or their affiliates, as set forth in *Barnett Bank of Marion County N.A. v. Nelson*, 517 U.S. 25 (1996). However, State restrictions that are substantially the same as but no more burdensome than the thirteen general safe harbors provided are not subject to potential preemption. States are also allowed to continue the regulation of insurance activities other than sales, solicitation, and cross-marketing, and the preemption standard does not apply to such regulation if consistent with the standards set forth in the legislation.

State regulation other than of insurance or securities activities is not preempted even if it does prevent or restrict an activity so long as it does not discriminate. The Conferees adopted the House discrimination standard with respect to insurance activities. The discrimination standard does not apply to State regulations governing insurance sales, solicitations, or cross-marketing activities adopted before September 3, 1998, and does not apply to State regulations that are substantially the same as but no more burdensome than the safe harbors. State securities regulation is not preempted by the ''prevent or restrict'' standard with regard to a State securities commission's ability to investigate and enforce certain unlawful securities transactions or to require the licensure or registration of securities and securities brokers, dealers, and investment advisors and their associates. State actions of general corporate applicability applying to companies domiciled or incorporated in the State are also protected from the ''prevent or restrict'' preemption, as well as State laws similar to the antitrust laws, so long as the State actions are not inconsistent with the intent of this Act to permit affiliations. The term ''depository institution'' is defined as including foreign banks and their domestic affiliates and subsidiaries. The term ''affiliate'' is defined for section 104 to include any person under common control (including a subsidiary).

Subtitle B—Streamlining Supervision of Bank Holding Companies

Both the House and Senate bills generally adhere to the principle of functional regulation, which holds that similar activities should be regulated by the same regulator. Different regulators have expertise at supervising different activities. It is inefficient and impractical to expect a regulator to have or develop expertise in regulating all aspects of financial services. Accordingly, the legislation intends to ensure that banking activities are regulated by bank regulators, securities activities are regulated by securities regulators, and insurance activities are regulated by insurance regulators.

In keeping with the Board's role as an umbrella supervisor, the legislation provides that the Board may require any bank holding company or subsidiary thereof to submit reports regarding its financial condition, systems for monitoring and controlling financial and operating risks, transactions with depository institutions, and compliance with the BHCA or other Federal laws that the Board has specific jurisdiction to enforce. The Board is directed to use existing examination reports prepared by other regulators, publicly reported information, and reports filed with other agencies, to the fullest extent possible.

The Board is authorized to examine each holding company and its subsidiaries. It may examine functionally regulated subsidiaries only if: (1) the Board has reasonable cause to believe that such a subsidiary is engaged in activities that pose a material risk to an affiliate depository institution; (2) it reasonably believes after reviewing the relevant reports that examining the subsidiary is necessary to adequately inform the Board of the systems for monitoring risks; or, (3) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with the BHCA or other Federal law that the Board has specific jurisdiction to enforce and the Board cannot make such a determination through examination of an affiliated depository institution or the holding company. The Board is directed to use, to the fullest extent possible, examinations made by appropriate Federal and State regulators.

The Board is not authorized to prescribe capital requirements for any functionally regulated subsidiary that is in compliance with applicable capital requirements of another Federal regulatory authority, a State insurance authority, or is a registered investment adviser or licensed insurance agent. The legislation also makes it clear that securities and insurance activities conducted in regulated entities are subject to functional regulation by the relevant State securities authorities, the Securities and Exchange (''SEC''), or State insurance regulators.

The Board is prohibited from requiring a broker-dealer or insurance company that is a bank holding company to infuse funds into a depository institution if the company's functional regulator determines, in writing, such action would have a material adverse effect on the broker-dealer or insurance company. If the functional regulator makes such a determination, the Board may require the holding company to divest its depository institution. All the Federal banking agencies are subject to the same limits on reports, examinations and capital requirements for functionally regulated affiliates which apply to the Board. This ensures that the Office of the Comptroller of the Currency (''OCC''), the Office of Thrift Supervision (''OTS''), and the Federal Deposit Insurance Corporation (''FDIC'') will not be able to assume and duplicate the function of being the general supervisor over functionally regulated subsidiaries. The legislation specifically preserves, however, the FDIC's authority to examine a functionally regulated affiliate. This authority, which should be used sparingly, is necessary to protect the deposit insurance funds.

The legislation also specifically addresses indirect action by the Board against functionally regulated affiliates. Consistent with functional regulation, the Board's authority to take indirect action against a functionally regulated affiliate is limited. The Board may not promulgate rules, adopt restrictions, safeguards or any other requirement affecting a functionally regulated affiliate unless the action is necessary to address a ''material risk'' to the safety and soundness of the depository institution or the domestic or international payments system and it is not possible to guard against such material risk through requirements imposed directly upon the depository institution.

The Federal banking regulators are empowered to adopt prudential safeguards governing transactions between depository institutions, their subsidiaries and affiliates so as to avoid, among other items, significant risk to the safety and soundness of the institution. The regulators are required to review these safeguards regularly and modify or eliminate those requirements which are no longer necessary.

Bank holding companies may elect to become FHCs by meeting the statutory requirements and filing a declaration and a certification with the Board. The legislation makes it clear that a duplicative registration statement under section 5 of the BHCA is not required. The integrity of the deposit insurance funds is preserved by prohibiting the use of deposit insurance funds to benefit any shareholder, subsidiary or nondepository affiliate of an FHC. This section ensures that the federal safety net is not extended to persons who are not entitled to Federal deposit insurance coverage.

The savings bank restrictions in the BHCA are repealed. This repeal is designed to conform the regulation of savings bank life insurance to other provisions of Federal banking law.

The Conferees intend that the Board be flexible in its application of holding company consolidated capital standards for the leverage requirement and the timing of the asset calculations to FHCs of which the predominant regulated subsidiary is a broker-dealer. The Conferees intend that, to the extent the Board deems feasible and consistent with the overall financial condition and activities of the holding company, the capital requirements for such holding companies be consistent with the capital standards applied by the SEC to the broker-dealer, which accounts for the predominant amount of assets and activities of the holding company.

Subtitle C—Subsidiaries of National Banks

Senate Position: The Senate bill authorizes a national bank to control a subsidiary engaged in financial activities permissible for a bank holding company (but not permissible for a national bank directly) under section 4(k) if the bank has consolidated total assets not exceeding $1 billion, is not affiliated with a bank holding company, is well capitalized, and well managed. For the purpose of determining a parent national bank's regulatory capital, a deduction from assets and tangible equity is required for the amount of outstanding equity investments made in a financial subsidiary. In addition, the assets and liabilities of the financial subsidiary must not be consolidated with those of the parent bank. Equity investments in the operating subsidiary by a parent national bank must not exceed the amount the bank could pay as a dividend without obtaining prior regulatory approval. The Senate bill also clarifies that a national bank may conduct through a subsidiary any activity which the national bank may engage directly and any activity lawfully conducted as of the date of enactment of this legislation.

House Position: The House bill authorizes a national bank subsidiary to engage only in activities permissible for national banks to engage in directly, activities otherwise expressly authorized by statute, and activities that are financial in nature or incidental to financial activities. Financial activities are defined as those activities permissible for an FHC or activities that the Secretary of the Treasury determines to be financial in nature or incidental to financial activities in consultation and coordination with the Federal Reserve Board. Excluded from the list of permissible financial activities are insurance underwriting, insurance company portfolio investments, and real estate investment and development. National bank operating subsidiaries also may engage in developing activities. In order for a national bank operating subsidiary to engage in activities that are financial in nature, its parent bank and all its depository institution affiliates must be well capitalized, well managed, and have a satisfactory CRA rating. A cure procedure is established to address situations where there is a failure to comply with these conditions. It also requires that the aggregate amount of the national bank parent's equity investments in the bank be deducted from the bank's capital including the operating subsidiary's retained earnings. In addition,

the assets and liabilities of the subsidiary must not be consolidated with those of its parent bank. Equity investments in the operating subsidiary by a parent national bank must not exceed the amount the bank could pay as a dividend without obtaining prior regulatory approval.

Conference Substitute: The Senate receded to the House with an amendment.

Under the amendment, national banks of any size are permitted to engage through a financial subsidiary only in financial activities (with exceptions) authorized by this Act. Section 121 specifically excludes four types of activities for financial subsidiaries: insurance or annuity underwriting, insurance company portfolio investments, real estate investment and development, and merchant banking (subject to section 122). These types of financial activities may only be done in FHC affiliates. The federal banking regulators are prohibited from interpreting these provisions to provide for any expansion of these activities contrary to the express language of this statute. It is the intent of the Conferees that these new statutory provisions—and the regulations to be adopted pursuant thereto—supercede and replace the OCC's Part 5 regulations on operating subsidiaries.

Subtitle D—Preservation of FTC Authority

Section 131. Amendment to the Bank Holding Company Act of 1956 to modify notification and post-approval waiting period for section 3 transactions

Senate Position: No provision.

House Position: Section 141 of the House amendment amends section 11(b)(1) of the BHCA (12 U.S.C. section 1849(b)(1)) to provide for notice to the Federal Trade Commission (''FTC'') when the Board of Governors of the Federal Reserve System approves a transaction under section 3 of the BHCA if that transaction also involves a transaction under section 4 or 6 of the BHCA.

Conference Substitute: The Senate receded to the House with an amendment.

Under section 131 of the Conference Report, the modification simply eliminated the reference to section 6 because the new activities for FHCs are now included within section 4 of the BHCA as amended by the Conference Report. The FTC currently has no role in reviewing pure section 3 transactions, and this amendment does not change that. However, the FTC does perform reviews of certain section 4 transactions. This amendment will simply allow the FTC to coordinate its review with the Board in those cases that also involve a section 3 transaction.

Section 132. Interagency data sharing

Senate Position: No provision.

House Position: Section 142 of the House amendment provided that, except as otherwise prohibited by law, the banking regulators who review mergers or acquisitions (the OCC, the OTS, the FDIC, and Federal Reserve Board) shall make available to the antitrust agencies (the Department of Justice and the Federal Trade Commission (''FTC'')) any information in the bank regulators' possession that the antitrust agencies deem necessary for their antitrust review under sections 3, 4, or 6 of the BHCA, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

Conference Substitute: The Senate receded to the House with an amendment.

Under section 132 of the Conference Report, the modification eliminated the reference to section 6 of the BHCA because the new activities for FHCs are now included within section 4 of the BHCA as amended by the Conference Report. In addition, the modification added new sections 132(b) and 132(c). New section 132(b) requires that any information shared under this provision be kept confidential; that before any information shared under this provision is disclosed to a third party, the agency which shared it must be notified in writing and given a chance to oppose or limit the disclosure; that any sharing under this provision does not affect any claim of privilege with respect to such information; and that nothing in this section shall be construed to limit access to any information by the Congress or the Comptroller General. New section 132(c) simply applies the provisions of new section 132(b) to the sharing of information between Federal banking agencies and State regulators or any other party.

In the past, there have been difficulties with banking agencies sharing bank examination reports with the antitrust agencies because of doubts about whether they had sufficient authority to do so. The reports have generally been shared in the end. However, in cases of failing institutions in which review has been expedited or of institutions taken over by the government, delays in providing these reports have sometimes impeded antitrust review. This language simply allows all of the involved agencies to do their respective tasks in the most expeditious manner possible.

Section 133. Clarification of status of subsidiaries and affiliates

Senate Position: No provision.

House Position: Section 143(a) of the House amendment provided that subsidiaries or affiliates of banks or savings associations which are not themselves banks or savings associations shall not be treated as banks or savings associations for purposes of the FTC Act or any other law enforced by the FTC. Section 143(b) clarified that nothing in this section shall be construed as restricting the authority of any Federal banking agency.

Section 143(c) amended the existing BHCA exceptions to the Hart-Scott-Rodino (''H-S-R'') Act, 15 U.S.C. section 18a(c)(7) and 18a(c)(8). Under current law, transactions subject to approval under section 3 of the BHCA are exempt from H-S-R review. Likewise, assuming certain conditions are met, transactions subject to approval under section 4 are also exempt. The amendments in section 143(c) clarified that when FHCs acquire other FHCs and either of those companies was involved in new activities under section 6 of the BHCA as amended by the House amendment, the portion of the transaction involving those section 6 activities would be subject to H-S-R review. However, the remainder of the transaction will continue to be reviewed under the existing BHCA.

Conference Substitute: The Senate receded to the House with modifications.

Under section 133 of the conference report, the modification to section 133(a) clarified that the language applied to any provision of law applied by the FTC under the FTC Act. This clarification makes it clear that the section is limited to laws that the FTC currently enforces and is not intended to provide authority to enforce any new statutes. Under current law, section 5(a)(2) of the FTC Act prohibits the FTC from enforcing the Act against banks or savings associations. The conference report will, however, allow these entities to acquire other kinds of businesses, for example, securities firms, against which the FTC can currently enforce the Act. This provision simply makes it clear that these kinds of businesses do not fall within the bank or savings association exemption because they are owned by such an entity.

There was no modification to the savings provision contained in section 133(b).

The modification to section 133(c) replaced the reference to section 6 of the BHCA as amended by the House amendment with a reference to section 4(k) of the BHCA as amended by the conference report. Under the conference report, section 4(k) now contains the language allowing FHCs to engage in new activities. This amendment to the H-S-R exemptions will allow the antitrust agencies to continue to review mergers between insurance companies, securities firms, and other businesses newly allowed to FHCs as they are today, notwithstanding the ownership interest of the FHC. This clarification for the new FHC structure is consistent with, and does not disturb, existing law and precedents under which mergers involving complex corporate entities, some parts of which are in industries subject to merger review by specialized regulatory agencies and other parts of which are not, are considered according to agency jurisdiction over their respective parts, so that normal H-S-R Act requirements apply to those parts that do not fall within the specialized agency's specific authority. See 16 C.F.R. section 802.6.

Annual GAO report (section 144 of the House amendment)

Senate Position: No provision.

House Position: Section 144 of the House amendment provided for the General Accounting Office to submit an annual report to Congress on market concentration in the financial services industry for each of the next five years.

Conference Substitute: The House receded to the Senate.

SUBTITLE E—NATIONAL TREATMENT

Section 141. Foreign Banks that are Financial Holding Companies

Senate Position: The Senate bill, at section 151, permits termination of the financial grandfathering authority granted by the International Banking Act and other statutes to foreign banks to engage in certain financial activities. Foreign banks with grandfathered financial affiliates would be permitted to retain these grandfathered companies on the same terms that domestic banking organizations are permitted to establish them.

House Position: The House amendment, at section 151, is similar.

Conference Substitute: The Senate receded to the House.

Section 142. Representative offices

Senate Position: The Senate bill, at section 152, requires prior approval by the Federal Reserve Board for the establishment of representative offices that are subsidiaries of a foreign bank.

House Position: The House bill, at section 153, contains the same provision.

Conference Substitute: The Senate receded to the House.

Subtitle F—Direct Activities of Banks

Senate Position: The Senate bill authorizes national banks to deal in, underwrite, and purchase municipal bonds for their own investment accounts.

House Position: The House amendment is identical.

Conference Substitute: The House receded to the Senate.

TITLE II

Subtitle A—Brokers and Dealers

Senate Position: The Senate bill repeals the exemptions from the definition of broker and dealer under the Federal securities laws that currently apply to banks, generally subjecting banks and their affiliates and subsidiaries to the same regulation as all other providers of securities products. However, the Senate bill replaces the general bank exemption with specific exemptions for certain bank activities.

House Position: The House amendment also repeals the general bank exemptions from the definition of broker and dealer under the Federal securities laws but provides more limited exemptions than does the Senate bill.

Conference Substitute: Subtitle A of title II of the Gramm-Leach-Bliley Act provides for functional regulation of bank securities activities. The Conferees retained certain limited exemptions to facilitate certain activities in which banks have traditionally engaged. These exceptions relate to third-party networking arrangements, trust activities, traditional banking transactions such as commercial paper and exempted securities, employee and shareholder benefit plans, sweep accounts, affiliate transactions, private placements, safekeeping and custody services, asset-backed securities, derivatives, and identified banking products.

The Conferees provided for an exception for networking arrangements between banks and brokers. Revisions to Rule 1060 recently approved by the National Association of Securities Dealers (''NASD'') are in conflict with this provision. As a consequence, revisions to the rule should be made to exempt banks and their employees from the provisions' coverage.

The Conferees provided that banks that effect transactions in a trustee or fiduciary capacity under certain conditions will be exempt from registration under the Federal securities laws if the bank: (1) is chiefly compensated by means of administration and certain other fees, including a combination of such fees, and (2) does not publicly solicit brokerage business. The Conferees expect that the SEC will not disturb traditional bank trust activities under this provision.

The Conferees also provided that classification of a particular product as an identified banking product shall not be construed as a finding or implication that such product is or is not a security for purposes of the securities laws, or is or is not a transaction for any purpose under the Commodity Exchange Act. The Conferees do not intend in the Gramm-Leach-Bliley Act to express an opinion upon or to address the issue of legal certainty for swap agreements under the securities and commodity exchange laws.

The Conferees also provided that the Commodity Exchange Act is not amended by the Gramm-Leach-Bliley Act, and no transaction or person which is otherwise subject to the jurisdiction of the Commodity Futures Trading Commission pursuant to the Commodity Exchange Act is exempted from such jurisdiction because of the provisions of the Gramm-Leach-Bliley Act.

For new hybrid products, the Conferees codified in the securities laws a process that requires the SEC to act by rulemaking prior to seeking to regulate any bank sales of any such new product. This rulemaking process is designed to give notice to the banking industry in an area that could involve complex new products with many elements.

The process contemplated by the Conferees would work as follows. Prior to seeking to require a bank to register as a broker or dealer with respect to sales of any new hybrid product, the SEC would have to engage in a rulemaking. In its rulemaking, the SEC would need to find that the new product is a security. In addition, the SEC would have to determine that the product is a ''new hybrid product.''

A new hybrid product is not one of the products listed in the definition of ''identified banking product''. Including a product on the list of identified banking products shall not be construed as a finding or implication that such product is or is not a security, but it would not be a new hybrid product. The Conferees codified the definition of Identified Banking Products as a free-standing provision of law, neither in the securities laws nor in the banking laws.

In addition, during the rulemaking process, the SEC must also make a number of findings. When considering whether such an action is in the public interest, the SEC must also consider whether the action will promote efficiency, competition and capital formation, as set forth in section 3(f) of the Securities Exchange Act of 1934 (''Exchange Act''). The Conferees note that the SEC's record in implementing section 3(f) has failed to meet Congressional intent. The Conferees expect that the SEC will improve in this area.

Prior to commencing a rulemaking process, the SEC is required to consult with and seek the concurrence of the Federal Reserve Board concerning the imposition of broker or dealer registration requirements with respect to any new hybrid product. In developing and promulgating rules under this subsection, the SEC shall consider the views of the Board, including views with respect to the nature of the new hybrid product; the history, purpose, extent, and appropriateness of the regulation of the new product under the Federal banking laws; and the impact of the proposed rule on the banking industry.

If the Board seeks review of any final regulation under this section, such review will serve as a stay on the rulemaking until final adjudication of the matter between the SEC and the Board. In considering such an appeal, the United States Court of Appeals for the District of Columbia Circuit shall determine to affirm and enforce or set aside a regulation of the SEC under this subsection, based on the determination of the court as to whether: (1) the subject product is a new hybrid product; (2) the subject product is a security; (3) imposing a requirement to register as a broker or dealer for banks engaging in transactions in such product is appropriate in light of the history, purpose and extent of regulation under the Federal securities laws and under the Federal banking laws, giving deference neither to the views of the SEC nor to the Board.

Subtitle B—Bank Investment Company Activities

Senate Position: No provision.

House Position: The House bill amends the Investment Advisers Act and the Investment Company Act to subject banks that advise mutual funds to the same regulatory scheme as other advisers to mutual funds. It also requires banks to make additional disclosure when a fund is sold or advised by a bank.

Conference Substitute: The Senate recedes to the House provision with an amendment.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

Senate Position: No provision.

House Position: The House amendment creates a new investment bank holding company structure under the Exchange Act. This subtitle is designed to implement a new concept of SEC supervision of broker/dealer holding companies (that do not control depository institutions with certain exceptions) that voluntarily elect SEC supervision. This provision is designed to assure that the supervision of an investment bank holding company by the SEC is a meaningful option. Non-U.S. financial institutions supervisors, when reviewing regulatory applications or notices submitted by a U.S. financial institution supervised in the United States as an investment bank holding company by the SEC under section 231, shall treat the SEC as the principal U.S. consolidated home country supervisor of such financial institution on the same basis and terms as if the Federal Reserve Board were the principal U.S. consolidated home country supervisor.

Conference Substitute: The Senate recedes with an amendment. The Conferees eliminated the authority of the SEC to regulate investment bank holding company capital.

Subtitle D—Banks and Bank Holding Companies

Senate Position: No provision.

House Position: The House amendment requires the SEC to consult and coordinate comments with the appropriate Federal banking regulators before any action or rendering any opinion with respect to the manner in which an insured depository institution or insured depository holding company reports loan loss reserves.

Conference Substitute: The Senate recedes to the House provision. The Conferees note that the SEC's actions with respect to the reporting of loan loss reserves by certain insured depository institutions did not reflect adequate consultation with the Federal banking agencies with respect to potential implications on the safety and soundness of the Federal deposit insurance fund. The Conferees expect that this provision will facilitate better coordination and decision-making by the SEC in this area.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

Senate Position: The Senate bill contains a number of provisions intended to preserve State regulation of insurance.

House Position: The House amendment similarly contains a number of provisions intended to preserve and enhance State regulation of insurance.

Conference Substitute: The Senate receded to the House with an amendment.

In general, Subtitle A of Title III reaffirms that States are the regulators for the insurance activities for all persons, including acting as the functional regulator for the insurance activities of federally chartered banks. This functional regulatory power is subject to section 104 of Title I, however, which sets forth the appropriate balance of protections against discriminatory actions. Federally chartered banks and their subsidiaries are prohibited from underwriting insurance, except for authorized products. A rule of construction was added by the Conference Committee to prevent evasion of State insurance regulation by foreign reinsurance subsidiaries or offices of domestic banks, clarifying that providing insurance (including reinsurance) outside of the United States to indemnify an insurance product or company in a State shall be considered to be providing insurance as principal in that State.

Federally chartered banks are prohibited from engaging in any activity involving the underwriting or sale of title insurance, except that national banks may sell title insurance products in any State in which state-chartered banks are authorized to do so (other than through a ''wild card provision''), so long as such sales are undertaken ''in the same manner, to the same extent, and under the same restrictions'' that apply to such state-chartered banks. Certain currently and lawfully conducted title insurance activities of banks are grandfathered, and existing State laws prohibiting all persons from providing title insurance are protected.

An expedited and equalized dispute resolution mechanism is established to guide the courts in deciding conflicts between Federal and State regulators regarding insurance issues. The ''without unequal deference'' standard of review does not apply to State regulation of insurance agency activities that were issued before September 3, 1998 (other than those protected by the scope of the safe harbor provision of section 104).

The Federal banking agencies are required to issue final consumer protection regulations within one year, to provide additional safeguards for the sale of insurance by any bank or other depository institution, or by any person at or on behalf of such institution.

State laws that prevent or significantly interfere with the ability of insurers to affiliate, become an FHC, or demutualize, are preempted, except as provided in section 104(c)(2), and with respect to demutualizing insurers for the State of domicile (and as set forth in the Redomestication Subtitle). State laws limiting the investment of an insurer's assets in a depository institution are also preempted, except that an insurer's State of domicile may limit such investment as provided.

The Federal banking agencies and the State insurance regulators are directed to coordinate efforts to supervise companies that control both depository institutions and persons engaged in the business of insurance, and to share, on a confidential basis, supervisory information including financial health and business unit transactions. The agencies are further directed to provide notice and to consult with the State regulators before taking actions which effect any affiliates engaging in insurance activities. A banking regulator is not required to provide confidential information to a State insurance regulator unless such State regulator agrees to keep the information in confidence and make all reasonable efforts to oppose disclosure of such information. Conversely, Federal banking regulators are directed to treat as confidential any information received from a State regulator which is entitled to confidential treatment under State law, and to make similar reasonable efforts to oppose disclosure of the information.

Subtitle B—Redomestication of Mutual Insurers

Senate Position: No provision.

House Position: The House bill allows mutual insurance companies to redomesticate to another state and reorganize into a mutual holding company or stock company. It only applies to insurers in States which have not established reasonable terms and conditions for allowing mutual insurance companies to reorganize into a mutual holding company. All licenses of the insurer are preserved, and all outstanding policies, contracts, and forms remain in full force. A redomesticating company must provide notice to the state insurance regulators of each State for which the company is licensed. A mutual insurance company may only redomesticate under this Subtitle if the State insurance regulator of the new (transferee) domicile affirmatively determines that the company's reorganization plan meets certain reasonable terms and conditions: the reorganization is approved by a majority of the company's board of directors and voting policyholders, after notice and disclosure of the reorganization and its effects on policyholder contractual rights; the policyholders have equivalent voting rights in the new mutual holding company as compared to the original mutual insurer; any initial public offering of stock shall be in accordance with applicable securities laws and under the supervision of the State insurance regulator of the transferee domicile; the new mutual holding company may not award any stock options or grants to its elected officers or directors for six months; all contractual rights of the policyholders are preserved; and the reorganization is approved as fair and equitable to the policyholders by the insurance regulators of transferee domicile.

Conference Substitute: The Senate receded to the House with an amendment.

SUBTITLE C—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS

Senate Position: The Senate bill contains a sense of the Congress statement that States should provide for a uniform insurance agent and broker licensing system.

House Position: The House bill encourages the States to establish uniform or reciprocal requirements for the licensing of insurance agents. If a majority of the States do not establish uniform or reciprocal licensing provisions within a three-year period (as determined by the National Association of Insurance Commissioners [''NAIC'']), then the National Association of Registered Agents and Brokers (''NARAB'') would be established as a private, non-profit entity managed and supervised by the State insurance regulators. State insurance laws and regulations shall not be affected except to the extent that they are inconsistent with a specific requirement of the Subtitle. Membership in NARAB is voluntary and does not affect the rights of a producer under each individual state license. Any state-licensed insurance producer whose license has not been suspended or revoked is eligible to join NARAB. NARAB shall be base membership criteria on the highest levels insurance producer qualification set by the States on standards such as integrity, personal qualification, education, training, and experience. NARAB members shall continue to pay the appropriate fees required by each State in which they are licensed, and shall renew their membership annually. NARAB may inspect members records, and revoke a membership where appropriate. NARAB shall establish an Office of Consumer Complaints, which shall have a toll-free phone number (and Internet website) to receive and investigate consumer complaints and recommend disciplinary actions. The Office shall maintain records of such complaints, which shall be made available to the NAIC and individual State insurance regulators, and shall refer complaints where appropriate to such regulators.

If the NAIC determines that the States have not met the uniformity or reciprocity requirements, then the NAIC has two years to establish NARAB. The NAIC shall appoint NARAB's board of directors, some of whom must have significant experience with the regulation of commercial insurance lines in the 20 States with the most commercial lines business. If within the time period allotted for NARAB's creation, the NAIC has still not appointed the initial board of directors for NARAB, then the initial directors shall be the State insurance regulators of the seven States with the greatest amount of commercial lines insurance. NARAB's bylaws are required to be filed with the NAIC, taking effect 30 days after filing unless disapproves by the NAIC as being contrary to the public interest or requiring a public hearing. The NAIC may require NARAB to adopt or repeal additional bylaws or rules as it determines appropriate to the public interest. The NAIC is given the responsibility of overseeing NARAB, and is authorized to examine and inspect NARAB's records, and require NARAB to furnish it with any reports.

If at the end of two years after NARAB is required to be established, (1) a majority of the States representing at least 50% of the total commercial-lines insurance premiums in the United States have not established uniform or reciprocal licensing regulations, or (2) the NAIC has not approved NARAB's bylaws or is unable to operate or supervise NARAB (or if NARAB is not conducting its activities under this Act), then NARAB shall be created and supervised by the President, and shall exist without NAIC oversight. The President shall appoint NARAB's board, with the advice and consent of the Senate, from lists of candidates submitted by the NAIC. If the President determines that NARAB's board is not acting in the public interest, the President may replace the entire board with new members (subject to the advice and consent of the Senate). The President may also suspend the effectiveness of any rule or action by NARAB which the President determines is contrary to the public interest. NARAB shall report annually to the President and Congress on its activities.

State laws regulating insurance licensing that discriminate against NARAB members based on non-residency are preempted, as well as State laws and regulations which impose additional licensing requirements on non-resident NARAB members beyond those established by the NARAB board (pursuant to this Subtitle), except that State unfair trade practices and consumer protection laws are protected from preemption, including counter-signature requirements. NARAB is required to coordinate its multistate licensing with the various States. It is also required to coordinate with the States on establishing a central clearinghouse for license issuance and renewal, and for the collection of regulatory information on insurance producer activities. NARAB shall further coordinate with the NASD to facilitate joint membership. Any dispute involving NARAB shall be brought in the appropriate U.S. District Court under federal law, after all administrative remedies through NARAB and the NAIC have been exhausted.

Conference Substitute: The Senate receded to the House.

Subtitle D—Rental Car Agency Insurance Activities

Senate Position: The Senate bill provides that the requirements under section 104 with respect to mandatory licensing do not apply to persons who offer insurance connected with a short term motor vehicle rental so long as the State does not require such licensing.

House Position: The House bill creates a Federal presumption for a three-year period that no State law imposes any licensing, appointment, or education requirements on persons who rent motor vehicles for a period of 90 days or less and sell insurance to customers in connection with the rental transaction. This presumption shall not apply to a State statute, the prospective application of a statutorily-authorized final State regulation or order interpreting a State statute, or the prospective application of a court judgment interpreting or applying a State statute, if such State statute or final State regulation or order specifically and expressly regulates (or exempts from regulation) persons who solicit or sell such short term vehicle rental insurance. This presumption shall apply to the retroactive application of a final State regulation or order interpreting a general State insurance licensing statute, or the retroactive application of a court judgment interpreting or applying a general State insurance licensing statute, with respect to the regulation of persons who solicit or sell such short term vehicle rental insurance.

Conference Substitute: The Senate receded to the House.

Subtitle E—Confidentiality

Senate Position: No provision.

House Position: The House bill requires insurance companies and their affiliates to protect the confidentiality of individually identifiable customer health and medical and genetic information. Such companies may only disclose such information with the consent of the customer or for statutorily specified purposes.

Conference Substitute: The House receded to the Senate.

TITLE IV—UNITARY THRIFT HOLDING COMPANY PROVISIONS

Sec. 401. Prohibition on new unitary savings and loan holding companies

Senate Position: The Senate bill, at section 601(a), amends the Home Owners' Loan Act to prohibit (except for corporate reorganizations) new unitary savings and loan holding companies from engaging in nonfinancial activities or affiliating with nonfinancial entities. The prohibition applies to a company that becomes a unitary savings and loan holding company pursuant to an application filed with the OTS after May 4, 1999. A grandfathered unitary thrift holding company (one in existence or applied for on or before May 4, 1999) retains its authority to engage in nonfinancial activities. The Senate bill, at section 601(b), allows mutual savings and loan holding companies to engage in new financial activities authorized under the Gramm-Leach-Bliley Act.

House Position: The House bill, at section 401(a), prohibits new unitary thrift holding companies after the grandfather date of March 4, 1999, from engaging in nonfinancial activities or from affiliating with a nonfinancial entity. The provision also allows a nonfinancial company to purchase a grandfathered unitary thrift holding company upon approval of an application filed with the OTS and approval or no objection to a notice filed with the Federal Reserve Board. The House bill, at section 401(b), permits a mutual holding company to engage in activities permissible for multiple stock holding companies and permits unitary mutual savings and loan holding companies to engage in the new financial activities authorized for FHCs.

Conference Substitute: The House receded to the Senate.

TITLE V—PRIVACY

SUBTITLE A—DISCLOSURE OF NONPUBLIC PERSONAL INFORMATION

Senate Position: No provision.

House Position: The House bill contained important provisions providing consumers with new protections with respect to the transfer and use of their nonpublic personal information by financial institutions.

Among other things, the House bill directed relevant regulators to establish comprehensive standards for ensuring the security and confidentiality of consumers' personal information maintained by financial institutions; allowed customers of financial institutions to ''opt out'' of having their personal financial information shared with nonaffiliated third parties, subject to certain exceptions; barred financial institutions from disclosing customer account numbers or similar forms of access codes to nonaffiliated third parties for telemarketing or other direct marketing purposes; and mandated annual disclosure—in clear and conspicuous terms—of a financial institution's policies and procedures for protecting customers' nonpublic personal information.

Conference Substitute: The Senate receded to the House with an amendment.

The amendment modified the House position in the following ways:

1. The Federal functional regulators, the Secretary of the Treasury, and the FTC, in consultation with State insurance authorities, are directed to prescribe such regulations as may be necessary to carry out the purposes of the privacy subtitle. The House bill had called for a joint rulemaking. The relevant agencies are required to consult and coordinate with one another in order to assure to the maximum extent possible that the regulations each prescribes are consistent and comparable with those prescribed by the other agencies. It is the hope of the Conferees that State insurance authorities would implement regulations necessary to carry out the purposes of this title and enforce such regulations as provided in this title.

2. To address the concern that the House bill failed to provide a mechanism for enforcing the subtitle's provisions against non-financial institutions, the Conferees agreed to clarify that the FTC's enforcement authority extends to such entities.

3. The Conferees agreed to clarify the relation between Title V's privacy provisions and other consumer protections already in law, by stating that nothing in the title shall be construed to modify, limit, or supersede the operation of the Fair Credit Reporting Act, and no inference shall be drawn on the basis of the provisions of the title regarding whether information is transaction or experience information under section 603 of that Act.

4. At the request of the Conferees from the Committee on Agriculture, the Conferees agreed to exclude from the scope of the privacy title any person or entity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act, as well as the Federal Agricultural Mortgage Corporation or any entity chartered and operating under the Farm Credit Act of 1971. The Conferees also excluded from this subtitle institutions chartered by Congress specifically to engage in securitization or secondary market transactions, so long as such institutions do not sell or transfer nonpublic personal information to nonaffiliated third parties. The Conferees granted the exception based on the understanding that the covered entities do not market products directly to consumers.

5. The Conferees agreed to clarify that a financial institution's annual disclosure of its privacy policy to its customers must include a statement of the institution's policies and practices regarding the sharing of nonpublic personal information with affiliated entities, as well as with nonaffiliated third parties.

6. The Conferees agreed to provide that the disclosure of nonpublic personal information contained in a consumer report reported by a consumer reporting agency does not fall within section 502's notice and opt out requirements.

7. The Conferees agreed to modify the statutory definition of ''nonpublic personal information'' by clarifying that such term does not encompass any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any nonpublic personal information.

8. The Conferees agreed to exclude disclosures to consumer reporting agencies from section 502(d)'s limitations on the sharing of account number information.

9. The Conferees agreed to give the relevant regulatory agencies the authority to prescribe exceptions to subsections (a) through (d) of section 502, rather than just sections 502(a) and (b), as provided for in the House bill.

10. The Conferees inserted language stating that the privacy provisions in the subtitle do not supersede any State statutes, regulations, orders, or interpretations, except to the extent that such State provisions are inconsistent with the provisions of the subtitle, and then only to the extent of the inconsistency. The amendment provides that a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this subtitle, as determined by the FTC in consultation with the agency or authority with jurisdiction under section 505(a) over either the person that initiated the complaint or that is the subject of the complaint, on its own motion or upon the petition of any interested party.

11. Section 506 authorizes the Federal banking agencies and the National Credit Union Administration to prescribe joint regulations governing the institutions under their jurisdiction with respect to the Fair Credit Reporting Act; the Conferees agreed to an amendment giving the Board of Governors of the Federal Reserve the authority to prescribe FCRA regulations governing bank holding companies and their affiliates.

12. The Conferees agreed to modify section 502(e)(5), to include the Secretary of the Treasury as a ''law enforcement agency'' for the purposes of the Bank Secrecy Act, to avoid unintended interference with the existing functions of the Treasury's anti-money laundering unit, the Financial Crimes Enforcement Network (''FinCEN'').

The Conferees wish to ensure that smaller financial institutions are not placed at a competitive disadvantage by a statutory regime that permits certain information to be shared freely within an affiliate structure while limiting the ability to share that same information with nonaffiliated third parties. Accordingly, in prescribing regulations pursuant to this subtitle, the agencies and authorities described in section 504(a)(1) should take into consideration any adverse competitive effects upon small commercial banks, thrifts, and credit unions. In issuing regulations under section 503, the regulators should take into account the degree of consumer access to disclosure by electronic means.

In exercising their authority under section 504(b), the agencies and authorities described in section 504(a)(1) may consider it consistent with the purposes of this subtitle to permit the disclosure of customer account numbers or similar forms of access numbers or access codes in an encrypted, scrambled, or similarly coded form, where the disclosure is expressly authorized by the customer and is necessary to service or process a transaction expressly requested or authorized by the customer.

The Conferees recognize the need to foster technological innovation in the financial services and related industries. The Conferees believe that the development of new technologies that facilitate consumers' access to the broad range of products and services available through online media should be encouraged, provided that such technologies continue to incorporate safeguards for consumer privacy.

SUBTITLE B—FRAUDULENT ACCESS TO FINANCIAL INFORMATION

Senate Position: The Senate bill contained provisions making it a Federal crime—punishable by up to five years in prison—to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed, customer information of a financial institution through fraudulent or deceptive means, such as by misrepresenting the identity of the person requesting the information or otherwise misleading an institution or customer into making unwitting disclosures of such information. In addition, it provided for a private right of action and enforcement by state attorneys general.

House Position: Similar provisions, with no private right of action or enforcement by State Attorneys General.

Conference Substitute: The Senate receded to the House with an amendment.

The amendment provided that authority for enforcing the subtitle would be placed in the FTC, the Federal banking agencies and the National Credit Union Administration (for enforcement of these provisions with respect to compliance by depository institutions within their jurisdiction).

TITLE VI—FEDERAL HOME LOAN BANK SYSTEM MODERNIZATION

The Senate and House bills reform the Federal Home Loan Bank (''FHLBank'') System in several important ways. Mandatory FHLBank membership for Federal savings associations is eliminated, in order to provide completely voluntary membership. Small bank members are given expanded access to FHLBank advances. Governance of the FHLBanks is decentralized from the Federal Housing Finance Board (''FHFB'') to the individual FHLBanks. The Resolution Funding Corporation (''REFCORP'') obligation of the FHLBanks, stemming from the savings and loan crisis, is changed from a fixed dollar amount to a fixed percentage of annual net earnings. The Senate bill directs the General Accounting Office to study FHLBank capital and the House bill establishes a new capital structure for the FHLBanks. The conference committee addressed three of these major areas.

Sec. 604. Advances to members; collateral

Senate Position: The Senate bill authorizes community financial institutions (FDIC-insured depository institutions with assets less than $500 million) to obtain long-term FHLBank advances for lending to small businesses, small farms, and small agri-businesses. Eligible collateral for community financial institutions receiving any FHLBank advances could include secured loans for small business, agriculture, or securities representing a whole interest in such loans.

House Position: The House bill authorizes community financial institutions to obtain long-term FHLBank advances for small business, agricultural, rural development, or low-income community development lending. Eligible collateral for community financial institutions receiving any FHLBank advances could include secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such loans. Such advances-funded non-housing loans are treated as qualified thrift investments in determining required FHLBank stock purchases for community financial institutions that are not qualified thrift lenders (''QTLs'').

Conference Substitute: The House receded to the Senate on the purposes and collateral for advances to community financial institutions. Greater stock purchases required of FHLBank members, that are not QTLs, when they receive advances are eliminated as is the requirement that such members only apply for advances for housing finance purposes. A priority for making advances to QTL members and a 30% limit on total advances to non-QTL members are also removed. Restrictions on obtaining new advances and having to repay advances after three years, applicable to savings associations that are not QTLs, are eliminated.

Sec. 606. Management of FHLBanks

Senate Position: The Senate bill changed the term of elected FHLBank directors from two to four years to make the term the same as for appointed directors. It transferred from the FHFB to the individual FHLBanks authority over a number of operational areas. It also gave the FHFB the same enforcement authority over FHLBanks and their executive officers and directors as the Federal banking agencies and the Office of Federal Housing Enterprise Oversight have under their statutes.

House Position: The House bill contained the same provisions. It also empowered the FHFB to address any capital insufficiencies resulting from voluntary membership and eliminated the 20:1 advances to stock ratio limit for a FHLBank member.

Conference Substitute: The Conference set terms for both elected and appointed directors at 3 years (staggered with approximately one-third of the terms expiring each year). A FHLBank's board of directors is authorized to elect by majority vote the board's Chairperson and Vice Chairperson. The term of office for the Chairperson and Vice Chairperson is two years. The annual salaries of FHLBank directors may not exceed specified amounts plus reimbursement of expenses. The maximum amounts are: Chairperson—$25,000; Vice Chairperson—$20,000; and other directors—$15,000. FHLBank directors may reside outside the FHLBank district if they are an officer or director of a member institution located in the district. The Senate receded to the House regarding the provisions on capital insufficiencies and the advances to stock ratio limit.

Sec. 608. Capital structure of the FHLBanks

Senate Position: The Senate bill directs the General Accounting Office to submit to Congress within one year of enactment a study on possible revisions to the FHLBanks' capital structure, including the need for more permanent capital, a statutory leverage ratio, and a risk-based capital structure. GAO would also study the impact such revisions might have on the FHLBanks' operations, including the REFCORP payment obligation.

House Position: The House bill establishes a new capital structure for the FHLBanks. The FHLBanks were authorized to issue three classes of stock: Class A (redeemable on 6–months notice), Class B (redeemable on 5–years notice), and Class C (nonredeemable). FHLBanks were required to meet a 5% leverage minimum tied to total capital and a risk-based requirement tied to permanent capital. Permanent capital included Class C stock, retained earnings, and up to 1% of a FHLBank's assets in Class B stock. Total capital included permanent capital plus Class A stock, Class B stock (other than what counted toward permanent capital), and a general allowance for losses. A FHLBank must at all times comply with both the leverage and risk-based capital requirements. In determining compliance with the 5% minimum leverage ratio, Class A stock was counted at paid-in value, Class B stock was weighted at 1.5 times paid-in value, and Class C stock and retained earnings at 2.0 times. The current capital structure of the FHLBanks must be maintained until the new capital requirements are fully implemented. Within one year of enactment, the FHFB must issue implementing regulations. The board of directors of each FHLBank must develop a capital plan, subject to FHFB approval. The FHLBanks have up to three years to carry out their plans.

Conference Substitute: The Senate receded to the House with an amendment regarding a new capital structure. Two classes of stock are authorized: Class A (redeemable on 6–months notice) and Class B (redeemable on 5–years notice). FHLBanks are required to meet a 5% leverage minimum tied to total capital and a risk-based requirement tied to permanent capital. Permanent capital includes Class B stock and retained earnings. Total capital includes permanent capital plus Class A stock, generally. In determining compliance with the 5% minimum leverage ratio, Class A stock is counted at paid-in value and Class B stock and retained earnings are weighted at 1.5 times; however, a FHLBank's total capital, determined without taking into account any multiplier, must not be less than 4% of total assets.

The weighting provision is included to encourage the FHLBanks to build more permanent, longer-term capital. Using the capital multiplier, the paid-in value of outstanding Class A stock plus 1.5 times the paid-in value of outstanding Class B stock and retained earnings must be at least 5% of total assets. Using no weighting factor, total capital must be at least 4% of total assets. For example, a FHLBank with $100 million in assets would comply with $5 million in Class A capital stock or $2 million in Class A capital stock and an unweighted $2 million in Class B capital stock and retained earnings (which would constitute $3 million on a weighted basis).

A FHLBank's permanent capital, used to measure its compliance with the risk-based capital requirement, consists of the amounts paid by members for Class B stock and the amount of the FHLBank's retained earnings. The amount of retained earnings that may be included in permanent capital must be determined in accordance with generally accepted accounting principles (GAAP), which precludes the use of non-GAAP regulatory accounting standards for measuring retained earnings. The amount of Class B stock that is to be included in permanent capital is the full amount paid by a member to the FHLBank for the purchase of Class B stock.

A FHLBank's total capital, used to measure its compliance with the statutory leverage ratio, consists of permanent capital, the amounts paid by members for Class A stock, any general allowance for losses (consistent with GAAP and subject to FHFB regulation), and any other amounts from sources determined by the FHFB to be available to absorb losses incurred by the FHLBank and appropriate for including as capital. Any loss reserve that is held or established against a specific asset of the FHLBank is expressly prohibited from being included in total capital, as such reserves are not capable of absorbing potential losses on other assets.

In recognition of Congressional concern regarding the Financial Management and Mission Achievement (''FMMA'') rule recently proposed by the FHFB, the Chairman of the FHFB sent a letter on October 18, 1999 to the Senate and House Banking Committee Chairmen (inserted below) providing assurances that the proposal would be withdrawn, upon enactment of this legislation. It is the conference committee's understanding and expectation that the FMMA will be withdrawn and that the FHFB will take no action to promulgate proposed or final regulations limiting assets or advances beyond those currently in effect until the statutorily required FHLBank System capital rules are finalized and the statutory period for submission of capital plans by the FHLBanks has expired. If and when the FHFB develops a new FMMA, or similar rules, we expect that the FHFB will provide ample opportunity for public comment and hearings. It is the desire of the conference committee that the FHFB consult with the Banking Committees regarding both the capital regulations and any financial management and/or mission related rules prior to issuing them in proposed form.

FEDERAL HOUSING FINANCE BOARD,
Washington, DC, October 18, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing, and Urban Affairs, Washington, DC.

Hon. JIM LEACH,
Chairman, Committee on Banking and Financial Services, Washington, DC.

DEAR SENATOR GRAMM AND CONGRESSMAN LEACH: As you proceed to consider legislation to modernize the Federal Home Loan Bank System as part of the S. 900/H.R. 10 conference, I am aware that there is substantial concern regarding our proposed Financial Management and Mission Achievement regulation (FMMA). Unfortunately, this legitimate concern regarding a far-reaching

regulatory initiative has resulted in a proposal for a statutory moratorium on our regulatory authority. Despite the best efforts of well-meaning advocates, such statutory language can only lead to serious ambiguity and potential litigation over the independent regulatory authority of the Finance Board.

Therefore, this letter is intended to give you and your colleagues on the Committee of Conference solid assurances about our intentions upon final enactment of the statute being drafted in conference. Upon such enactment, the Finance Board will:

1. Withdraw, forthwith, its proposed FMMA.

2. Proceed in accordance with the statutory instructions regarding regulations governing a risk-based capital system and a minimum leverage requirement for the Federal Home Loan Banks.

3. Take no action to promulgate proposed or final regulations limiting assets or advances beyond those currently in effect (except to the extent necessary to protect the safety and soundness of the Federal Home Loan Banks) until such time as the regulations described in number 2 have become final and the statutory period for submission of capital plans by the Banks has expired.

4. Consult with each of you and your colleagues on the Banking Committees of the House and the Senate, regarding the content of both the capital regulations and any regulations on the subjects described in number 3, prior to issuing them in proposed form.

I believe that these commitments cover the areas of concern which have led to a proposal for moratorium legislation. You can rely on this commitment to achieve those legitimate ends sought by moratorium proponents without clouding the necessary regulatory authority of the Finance Board which could result from statutory language.

Thank you for your consideration.

Sincerely,

BRUCE A. MORRISON.

TITLE VII—OTHER PROVISIONS

Subtitle A—ATM Fee Reform

Senate Position: The Senate bill at Title VII requires automated teller machine (''ATM'') operators who impose a fee for use of an ATM by a noncustomer to post a notice on the machine and on the screen that a fee will be charged and the amount of the fee. This notice must be posted before the consumer is irrevocably committed to completing the transaction. A paper notice issued from the machine may be used in lieu of a posting to the screen. No surcharge may be imposed unless the notices are made and the consumer elects to proceed with the transaction. A notice is required when ATM cards are issued that surcharges may be imposed by other parties when transactions are initiated from ATMs not operated by the card issuer. ATM operators are exempt from liability if properly placed notices on the machines are subsequently removed, damaged, or altered by anyone other than the ATM operator.

House Position: Same.

Conference Substitute: The House receded to the Senate with an amendment.

The amendment grants a temporary exemption for those older machines that are unable to provide certain of the notices required.

Subtitle B—Community Reinvestment

Sec. 711. CRA sunshine requirements

Senate Position: Section 312 of the Senate bill amends the Federal Deposit Insurance Act by creating a new Section 46, to require full disclosure of agreements entered into between insured depository institutions or their affiliates and nongovernmental entities or persons made pursuant to or in connection with the fulfillment of the CRA. The section does not confer any authority on the Federal banking agencies to enforce the provisions of these agreements.

House Position: No provision.

Conference Substitute: The House receded to the Senate, with an amendment.

As recommended by the Conferees, the provision requires full disclosure of agreements, as defined in this section, between an insured depository institution or affiliate and a nongovernmental entity or person where the agreement is made pursuant to or in connection with the CRA, involving funds or other resources of an insured depository institution or affiliate.

The provision is not intended to define as a CRA agreement an individual mortgage loan (although it could apply to agreements involving, for example, parties acting as mortgage intermediaries or facilitators), or other specific contract to an individual, business, farm, or other entity, where funds are loaned at rates not substantially below market rates and if the purpose of the loan or extension of credit does not include any re-lending of borrowed funds to other parties. In addition, the scope of the provision does not extend to an agreement entered into by an insured depository institution or affiliate with a nongovernmental entity or person who has not commented on, testified about, or discussed with the institution, or otherwise contacted the institution, concerning the CRA. This exception to the coverage could include, for example, service organizations such as civil rights groups, community groups providing housing or other services in low-income neighborhoods, the American Legion, community theater groups, and so forth. The Federal Reserve Board may prescribe regulations to provide further exemptions consistent with the purposes of the provision.

In defining the agreements to which this provision would apply, the legislation assigns to the appropriate Federal banking agency the responsibility to identify a list of factors that the agency determines have a material impact on the agency's decision to approve or disapprove an application for a deposit facility or to assign a rating in an examination under the CRA. It is expected that the regulator will include in such list a full enumeration of the relevant factors that the agency reviews and considers in examining the performance of an insured financial institution in connection with the CRA, including any and all items a regulator would attach importance to in determining the evaluation under the act of the performance of a financial institution.

The Conferees note that while an agency may not give a great deal of weight to a mere agreement to perform certain CRA-related activities, per se, the agency does look carefully at the activities that the institution may have actually performed in fact pursuant to such an agreement. The disclosure and reporting requirements of this section apply to agreements defined in subsection (a) in either event.

As a general rule, the parties are required to disclose fully such agreements and make them available to the public and to the Federal banking agencies.

In addition, parties to each CRA agreement are required to report at least once each year on the use of resources provided pursuant to each agreement. A bank would file its report directly with its Federal regulator. A nongovernmental party is required to file its report with the appropriate Federal banking agency with supervisory responsibility over the insured depository institution that is a party to the agreement, either directly with the agency or via the insured depository institution, which would be required promptly to transmit the report to the Federal banking agency.

The Federal banking agencies are directed, in implementing regulations under this provision, to minimize the regulatory burden on reporting parties. One way in which to accomplish this goal would be wherever possible and appropriate with the purposes of this section, to make use of existing reporting and auditing requirements and practices of reporting parties, and thus avoid unnecessary duplication of effort. The Managers intend that, in issuing regulations under this section, the appropriate Federal supervisory agency may provide that the nongovernmental entity or person that is not an insured depository institution may, where appropriate and in keeping with the provisions of this section, fulfill the requirements of subsection (c) by the submission of its annual audited financial statement or its Federal income tax return.

Sec. 712. Small bank regulatory relief

Senate Position: The Senate provision amended the CRA to exempt from the provisions of that Act banks and savings and loan associations with total assets less than $100 million and that are located in nonmetropolitan areas.

House Position: No provision.

Conference Substitute: The House receded to the Senate provision with an amendment.

The provision directs that ''regulated financial institutions'' with aggregate assets not exceeding $250 million will be subject to routine examinations under the CRA as follows: (i) not more than once every 60 months if the institution received a rating of 'outstanding record of meeting community credit needs' at its most recent examination; (ii) not more than once every 48 months if the institution received a rating of 'satisfactory record of meeting community credit needs' at its most recent examination; and (iii) as deemed necessary by the appropriate Federal banking agency if the institution received a rating of less than 'satisfactory record of meeting community credit needs' at its most recent examination. The provision also states that the Federal banking agencies may subject an institution to more frequent or less frequent examinations for reasonable cause. A regulated financial institution shall remain subject to examination under this title in connection with an application for a deposit facility.

Sec. 713–715. Federal Reserve Board and Treasury studies, Impact on CRA

Senate Position: No provision.

House Position: The House bill at Section 110 requires a study by the Secretary of the Treasury, in consultation with the Federal banking agencies, of the extent to which adequate services are being provided as intended by the CRA, including services in low- and moderate-income neighborhoods and for persons of modest means, as a result of the enactment of the Gramm-Leach-Bliley Act. The report must be submitted to the Congress within two years.

Conference Substitute: The Senate receded to the House with an amendment directing, in addition, that the Federal Reserve Board conduct a comprehensive study of the CRA, in consultation with the Chairman and Ranking Member of the House Banking and Financial Services Committee and the Chairman and Ranking Member of the Senate Banking, Housing, and Urban Affairs Committee. The study is to focus on default rates, delinquency rates, and the profitability of loans made in conformity with that Act. The report must be submitted to the House and Senate Banking Committees no later than March 15, 2000. The provision also directs that the report and all of the supporting data be made available at the same time to the public by the Federal Reserve Board, to the extent that the data are not confidential.

The Conferees recommended further amending the House study with an amendment permitting the Secretary of the Treasury to submit to the Congress by March 15, 2000, a baseline report in addition to the final report as required in the House provision. The purpose of the baseline report is to give a set of data against which the Secretary will be able to measure change by the end of the two-year reporting period.

The Conferees also recommended an amendment to the House language to state that nothing in the Gramm-Leach-Bliley Act shall be construed to repeal any provision of the CRA.

Subtitle C—Other Regulatory Improvements

Sec. 721. Expanded small bank access to S corporation treatment

Senate Position: The Senate bill at section 302 requires the GAO to study and report to Congress within six months of the date of enactment on certain revisions to S corporation rules permitting greater access by community banks to S corporation treatment.

House Position: No provision.

Conference Substitute: The House receded to the Senate.

Sec. 722. ''Plain Language'' requirement for Federal banking agency rules

Senate Position: The Senate bill at section 306 directs the Federal banking agencies to use plain language in all proposed and final rule-makings published by the agency in the Federal Register after January 1, 2000, and to report to Congress by no later than March 1, 2001 on how they have complied with the plain language requirement.

House Position: No provision.

Conference Substitute: The House receded to the Senate.

Sec. 723. Retention of ''Federal'' in name of converted Federal savings associations

Senate Position: The Senate bill at section 307 would permit Federal savings associations that convert to national or state bank charters to keep the word ''Federal'' in their names.

House Position: Same.

Conference Substitute: The Senate receded to the House.

Sec. 724. Control of Bankers' Banks

Senate Position: The Senate bill at section 310 allows one or more thrift institutions to own a state-chartered bank or trust company, whose business is restricted to accepting deposits from thrift institutions or savings banks, deposits arising from the corporate business of the thrift institutions or savings banks that own the bank or trust company, or deposits of public funds.

House Position: No provision.

Conference Substitute: The House receded to the Senate.

Sec. 725. Provision of technical assistance to microenterprises

Senate Position: The Senate bill at section 316 establishes a grant program to fund nonprofit microenterprise development organizations, programs, collaboratives, or intermediaries engaged in (1) providing training and technical assistance to low-income and disadvantaged entrepreneurs interested in starting or expanding their own businesses; (2) building the capacity of organizations that serve low-income and disadvantaged entrepreneurs; and (3) supporting research and development aimed at identifying and promoting training and technical assistance programs that effectively serve low-income and disadvantaged entrepreneurs.

House Position: No provision.

Conference Substitute: The House receded to the Senate with an amendment.

While the Senate bill made the new microenterprise program a part of the Treasury Department's Community Development Financial Institutions program, the Conferees chose to have the new program administered by the Small Business Administration.

Sec. 726. Federal Reserve audits

Senate Position: The Senate bill at section 317 requires annual outside independent accounting firm audits of the Federal Reserve Banks and the Federal Reserve Board. In addition, the bill changes the definitions and rules that apply to the pricing of Federal Reserve System services under the Monetary Control Act.

House Position: No provision.

Conference Substitute: The House receded to the Senate with an amendment in the nature of a substitute. The substitute provision requires the Federal Reserve Board to order an annual independent audit of the financial statements of each Federal Reserve Bank and of the Board.

Sec. 727. Authorization to release reports

Senate Position: No provision.

House Position: The House bill at section 132 permits the Federal Reserve Board, at its discretion, to furnish exam reports and other confidential supervisory information concerning State member banks or other entities it examines to any Federal or State authorities with supervisory authority over an examined entity, to officers, directors, or receivers of the entity, or any other person that the Federal Reserve Board determines is proper. In addition, the House bill includes the Commodity Futures Trading Commission under definitions in the Right to Financial Privacy Act.

Conference Substitute: The Senate receded to the House with an amendment.

The amendment adds to the provision allowing the disclosure of reports and information by applying certain confidentiality requirements and procedures for disclosure.

Sec. 728. General Accounting Office study of conflicts of interest

Senate Position: No provision.

House Position: The House bill at section 193 requires the Comptroller General of the GAO to study the conflict of interest faced by the Federal Reserve Board between its role as a primary regulator of the banking industry and its role as a vendor of services. Specifically, the GAO should address the conflict between the Board's role as a regulator of the payment system and its role as a competitor with private sector providers of payment services, and how best to resolve that conflict. The study is due one year after enactment of the legislation.

Conference Substitute: The Senate receded to the House.

Sec. 729. Study and report on adapting existing legislative requirements to on-line banking and lending

Senate Position: No provision.

House Position: The House bill at section 195 requires the Federal banking agencies to conduct a study of banking regulations regarding the delivery of financial services, including those regulations that may assume that there will be face-to-face contact, and report their recommendations on adapting those existing requirements to online banking and lending. The report, with any recommended legislative or regulatory action, is due one year after the date of enactment of the legislation.

Conference Substitute: The Senate receded to the House with an amendment changing the due date of the study to two years after date of enactment.

Sec. 730. Clarification of source of strength doctrine

Senate Position: No provision.

House Position: The House bill at section 197 enhances the source of strength doctrine by, in certain circumstances, protecting the Federal banking agencies and the deposit insurance funds from claims brought by the bankruptcy trustee of a depository institution holding company or other person for the return of capital infusions.

Conference Substitute: The Senate receded to the House with an amendment in the nature of a substitute.

The substitute narrows and clarifies the circumstances under which a Federal banking agency would be protected from a claim. First, it clarifies that the transferred assets must be those of an affiliate or a controlling shareholder of an insured depository institution. The House amendment did not so specify. Second, section 730 provides that the transfer must be to or for the benefit of an insured depository institution and that it must be made by an affiliate or controlling shareholder of such insured depository institution. The House amendment did not include such clarifying language. Third, section 730 specifies that no person may bring a claim against a Federal banking agency for monetary damages, return of assets, or for other legal or equitable relief in connection with such transfer, consistent with certain limitations. The House amendment only referred to claims for monetary damages or for the return of assets or other property. Fourth, section 730 adds a definition of the term ''claim.'' For purposes of this provision, a claim is defined as a cause of action based on Federal or State law providing for the avoidance of preferential or fraudulent transfers or conveyances, or providing for similar remedies. The definition, however, explicitly excepts any claim based on actual intent to hinder, delay or defraud pursuant to such fraudulent transfer or conveyance law.

This section does not limit the right of a depository institution, a controlling stockholder, or a depository institution holding company to seek direct review of an order or directive of a Federal banking agency under the Administrative Procedure Act in accordance with various banking statutes. In addition, the provision does not limit the rights of a claimant to bring suit against the United States for a breach of contract or a taking under the 5th Amendment to the Constitution.

Sec. 731. Interest rates and other charges at interstate branches

Senate Position: No provision.

House Position: The House bill at section 198 provides loan pricing parity among interstate banks. Specifically, if an interstate bank can charge a particular interest rate, then a local bank in the State into which the interstate bank has branched, may charge a comparable rate.

Conference Substitute: The Senate receded to the House.

Sec. 732. Interstate branches and agencies of foreign banks

Senate Position: The Senate bill at section 313 allows a Federal or State agency of a foreign bank to upgrade to a branch with the approval of the appropriate chartering authority and the Federal Reserve Board.

House Position: Same.

Conference Substitute: The House receded to the Senate.

Sec. 733. Fair treatment of women by financial advisers

Senate Position: No provision.

House Position: The House bill at section 198B establishes the sense of the Congress that estate planners, trust officers, investment advisers, and other financial planners and advisors should eliminate examples in their training materials which portray women as incapable and foolish, and develop

fairer and more balanced presentations that eliminate outmoded and stereotypical examples which lead clients to take actions that are financially detrimental to their wives and daughters.

Conference Substitute: The Senate receded to the House with an amendment in the nature of a substitute.

The substitute establishes the sense of the Congress that individuals offering financial advice and products should do so in a nondiscriminatory, nongender-specific manner.

Sec. 734. Membership of loan guarantee boards

Senate Position: No provision.

House Position: No provision.

Conference Substitute: The Conferees adopted a provision that would modify the membership of the Emergency Steel Loan Guarantee Board and the Emergency Oil and Gas Loan Guarantee Board. Where under existing law the Chairmen of the Federal Reserve Board and SEC were designated as members, the provision permits both to designate another Member of the Board or another Commissioner as appropriate.

Sec. 735. Repeal of stock loan limit in Federal Reserve Act

Senate Position: No provision.

House Position: The House bill at section 124 repeals the restrictions in section 11(m) of the Federal Reserve Act on loans by Federal Reserve member banks secured by stock or bond collateral. Limitations on loans to one borrower imposed pursuant to other statutory authority are not affected.

Conference Substitute: The Senate receded to the House.

Sec. 736. Elimination of SAIF and DIF Special Reserves

Senate Position: The Senate bill at section 301 eliminates the need for the establishment of a SAIF ''special reserve'' which the FDIC was required to establish beginning in 1999. This revision becomes effective on the date of enactment.

House Position: Same other than the effective date.

Conference Substitute: The House receded to the Senate.

Sec. 737. Bank officers and directors as officers and directors of public utilities

Senate Position: The Senate bill at section 309 amends the Federal Power Act to permit officers or directors of public utilities to serve as officers or directors of banks, trust companies, or securities firms, if certain safeguards against conflicts of interest are complied with.

House Position: No provision.

Conference Substitute: The House receded to the Senate.

Sec. 738. Approval for purchases of securities

Senate Position: The Senate bill at section 315 authorizes a majority of the entire board of directors of a bank to vote on the purchase of securities from an affiliate, based on a determination that the purchase is a sound investment for the bank. Such a standard does not exist under current law, which simply requires the vote to be taken by a majority of independent directors.

House Position: No provision.

Conference Substitute: The House receded to the Senate.

Sec. 739. Optional conversion of Federal savings associations

Senate Position: The Senate bill at section 602 allows a Federal savings association chartered prior to the date of enactment to convert into one or more national banks, subject to the approval of the OCC, each of which may encompass one or more of the branches of the Federal savings association in one or more States.

House Position: No provision.

Conference Substitute: The House recedes to the Senate with an amendment.

The amendment would allow the conversion to State as well as national banks.

Sec. 740. Grand jury proceedings

Senate Position: No provision.

House Position: No provision.

Conference Substitute: The Conferees adopted a provision that would permit U.S. Attorneys offices to seek a court order to provide financial institution regulatory agencies with access to grand jury material, giving State regulatory agencies parity with Federal regulatory agencies.

From the Committee on Banking and Financial Services, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

JAMES A. LEACH,
BILL MCCOLLUM,
MARGE ROUKEMA,
DOUG BEREUTER,
RICK LAZIO,
SPENCER BACHUS,
MICHAEL N. CASTLE,
JOHN J. LAFALCE,
BRUCE F. VENTO,

As additional conferees from the Committee on Banking and Financial Services, for consideration of titles I, III (except section 304), IV, and VII of the Senate bill, and the title I of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
CAROL B. MALONEY,

As additional conferees from the Committee on Banking and Financial Services, for consideration of title V of the Senate bill, and title II of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
CAROL B. MALONEY,
JAMES H. MALONEY,

As additional conferees from the Committee on Banking and Financial Services, for consideration of title II of the Senate bill, and title III of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
CAROL B. MALONEY,
NYDIA M. VELÁZQUEZ,
DARLENE HOOLEY,

As additional conferees from the Committee on Banking and Financial Services, for consideration of title VI of the Senate bill, and title IV of the House amendment, and modifications committed to conference:

CAROL B. MALONEY,
LUIS V. GUTIERREZ,
KEN BENTSEN,

As additional conferees from the Committee on Banking and Financial Services, for consideration of section 304 of the Senate bill, and title V of the House amendment, and modifications committed to conference:

PAUL E. KANJORSKI,
GARY L. ACKERMAN,

From the Committee on Commerce, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL G. OXLEY,
BILLY TAUZIN,
PAUL GILLMOR,
JAMES GREENWOOD,
CHRIS COX,
STEVE LARGENT,
BRIAN BILBRAY,
E. TOWNS,
DIANA DEGETTE,
LOIS CAPPS,

Provided that Mr. Rush is appointed in lieu of Mrs. Capps for consideration of section 316 of the Senate bill:

BOBBY L. RUSH,

From the Committee on Agriculture, for consideration of title V of the House amendment, and modifications committed to conference:

LARRY COMBEST,
THOMAS W. EWING,
CHARLES W. STENHOLM,

From the Committee on the Judiciary, for consideration of sections 104(a), 104(d)(3), and 104(f)(2) of the Senate bill, and sections 104(a)(3), 104(d)(3)(A), 104(b)(4)(B), 136(b), 136(d)–(e), 141–44, 197, 301, 306 of the House amendment, and modifications committed to conference:

HENRY HYDE,
GEORGE W. GEKAS,

From the Committee on Banking and Financial Services, for consideration of section 101 of the Senate bill and section 101 of the House amendment: Mr. King is appointed in lieu of Mr. Bachus; Mr. Royce is appointed in lieu of Mr. Castle

PETER T. KING,
ED ROYCE,

From the Committee on Commerce, for consideration of section 101 of the Senate bill and section 101 of the House amendment: Mrs. Wilson is appointed in lieu of Mr. Largent; Mr. Fossella is appointed in lieu of Mr. Bilbray

HEATHER WILSON,
VITO FOSSELLA,

Managers on the Part of the House.

PHIL GRAMM,
CONNIE MACK,
ROBERT F. BENNETT,
ROD GRAMS,
WAYNE ALLARD,
MICHAEL B. ENZI,
CHUCK HAGEL,
RICK SANTORUM,
JIM BUNNING,
MIKE CRAPO,
PAUL SARBANES,
CHRISTOPHER J. DODD,
JOHN F. KERRY,
TIM JOHNSON,
JACK REED,
CHARLES SCHUMER,
EVAN BAYH,
JOHN EDWARDS,

Managers on the Part of the Senate.

NOTIFICATION OF INTENT TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. WISE. Mr. Speaker, pursuant to clause 2(a)(1) of House rule IX, I rise to give notice of my intent to offer a question of privileges of the House expressing the sense that its rights and integrity have been impugned.

The form of the resolution is as follows:

Calling on the President to abstain from renegotiating international agreements governing antidumping and countervailing measures.

Whereas under Art. I, Section 8 of the Constitution, the Congress has power and responsibility with regard to foreign commerce and the conduct of international trade negotiations;

Whereas the House of Representatives is deeply concerned that, in connection with the World Trade Organization (''WTO'') Ministerial meeting to be held in Seattle, Washington, and the multilateral trade negotiations expected to follow, a few countries are seeking to circumvent the agreed list of negotiation topics and reopen debate over the WTO's antidumping and antisubsidy rules;

Whereas the Congress has not approved new negotiations on antidumping or

antisubsidy rules and has clearly, but so far informally, signaled its opposition to such negotiations;

Whereas strong antidumping and antisubsidy rules are a cornerstone of the liberal trade policy of the United States and are essential to the health of the manufacturing and farm sectors in the United States;

Whereas it has long been and remains the policy of the United States to support antidumping and antisubsidy laws and to defend those laws in international negotiations;

Whereas, under present circumstances, launching a negotiation that includes antidumping and antisubsidy issues would affect the rights of the House and the integrity of its proceedings;

Whereas the WTO antidumping and antisubsidy rules concluded in the Uruguay Round have scarcely been tested since they entered into effect and certainly have not proved defective:

Whereas opening these rules to renegotiation could only lead to weakening them, which would in turn lead to even greater abuse of the world's open markets, particularly that of the United States;

Whereas conversely, avoiding another divisive fight over these rules is the best way to promote progress on the other, far more important, issues facing WTO members; and

Whereas it is therefore essential that negotiations on these antidumping and antisubsidy matters not be reopened under the auspices of the WTO or otherwise: Now, therefore, be it

Resolved, That the House of Representatives calls upon the President—

(1) not to participate in any international negotiation in which antidumping or antisubsidy rules are part of the negotiating agenda;

(2) to refrain from submitting for congressional approval agreements that require changes to the current antidumping and countervailing duty laws and enforcement policies of the United States; and

(3) to enforce the antidumping and countervailing duty laws vigorously in all pending and future cases.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from West Virginia will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

Mr. WISE. Mr. Speaker, I would ask to be heard at the appropriate time on the question of whether this resolution constitutes a question of privilege.

The SPEAKER pro tempore. The gentleman will be notified.

Mr. WISE. I thank the Speaker.

CONFERRING STATUS AS AN HONORARY VETERAN OF THE UNITED STATES ARMED FORCES ON ZACHARY FISHER

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 46) conferring status as an honorary veteran of the United States Armed Forces on Zachary Fisher.

The Clerk read as follows:

H.J. RES. 46

Whereas the United States has only once before conferred on an individual status as an honorary veteran of the United States Armed Forces, when in Public Law 105–67 Congress conferred that status on Leslie Townes (Bob) Hope;

Whereas status as an honorary veteran of the United States Armed Forces is and should remain an extraordinary honor not lightly conferred nor frequently granted;

Whereas the lifetime of accomplishments and generosity of Zachary Fisher on behalf of United States military servicemembers, veterans, and their families through a wide range of philanthropic activities fully justifies the conferring of such status;

Whereas Zachary Fisher is himself not a veteran, having attempted to enlist in the Armed Forces to serve his country during World War II, but being informed that he was ineligible due to a preexisting medical condition;

Whereas Zachary Fisher and his wife Elizabeth have as private citizens enhanced the lives of thousands of servicemembers, veterans, and their families through a wide range of philanthropic activities;

Whereas Zachary Fisher has been honored by each of the branches of the Armed Forces, by the Departments of Defense and Veterans Affairs, and by the major veterans service organizations for projects such as the preservation of the USS INTREPID as a sea-air-space museum in New York harbor, the establishment of the Fisher House program for relatives of critically ill members of the Armed Forces and their families, and the furnishing of scholarships and other financial support to families who have lost a loved one in service to their country; and

Whereas Zachary Fisher has been awarded the Presidential Medal of Freedom in recognition of his extraordinary patriotism and philanthropy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress—

(1) extends its gratitude, on behalf of the American people, to Zachary Fisher for his lifetime of accomplishments and philanthropy on behalf of United States military servicemembers; and

(2) confers upon Zachary Fisher the status of an honorary veteran of the United States Armed Forces.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. STUMP) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on this legislation.

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

There was no objection.

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

Mr. Speaker, House Joint Resolution 46 is a joint resolution conferring status as an honorary veteran of the United States Armed Forces on Zachary Fisher.

Mr. Fisher was a well-known ardent supporter of the U.S. military personnel and their families. Unfortunately, Mr. Fisher passed away last June. He was the founder of the Fisher Houses at military facilities, as well as on the grounds of the VA medical centers. Servicemembers and veterans or their families can stay at Fisher Houses while receiving medical treatment.

The Fisher Houses are tangible evidence of Zachary Fisher's commitment to servicemen and their veterans, but more important, for the intangible comfort these respites provided during the difficult times for their families.

In addition to the Fisher Houses, Zachary Fisher has established foundations that provided college scholarships to military dependents, and also gave generously to families and military members struck by tragic losses.

Zachary Fisher's efforts on behalf of our men and women in uniform, as well as veterans and their families, have earned the honor we bestow today. I strongly urge my colleagues to support this resolution.

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

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

Mr. Speaker, before expressing my strong support for this resolution, I want to take a few moments to make some brief remarks commending and thanking Jill Cochran.

Jill, as many Members know, is an outstanding individual who has served as a member of the Democratic staff of the Committee on Veterans' Affairs. She is a Democratic staff director on the Subcommittee on Benefits, who will be retiring early next month after a career of 25 years. During this time she has been devoted to working with and on behalf of our Nation's veterans.

Mr. Speaker, Jill has played a significant role in fashioning much of the major veterans' legislation enacted by Congress during the past 25 years. The list of her major contributions is so long I am unable to recite it in the time available. I will, however, recognize her many accomplishments in a statement in the near future.

She will obviously be missed, but for everything there is a season. It would be easy to think about ourselves at this time and fret about her absence. Instead, we wish her only the best as she embarks on a new path in her life.

At this time I merely want to say, thank you, Jill, for all you have done and accomplished for our Nation's servicemen and women.

Mr. Speaker, I also rise in strong support of this resolution, which would confer status as an honorary veteran of the United States Armed Forces on Zachary Fisher. I regret that this action on this resolution was not completed before his death earlier this year, but I believe that approval of this

joint resolution will be meaningful to his widow, Elizabeth, and to the entire Fisher family. Certainly it would be a gesture of tremendous importance to the men and women who serve in our Armed Forces and to our veterans.

To put it simply, Zachary Fisher loved his country. He loved those who served their country through their military service. The contributions made by Mr. And Mrs. Fisher which have enhanced the lives of many military personnel and their families, and have honored their service and sacrifice, are extraordinary.

Mr. Fisher was a remarkable man who lived an extraordinary life. In his statement regarding Mr. Fisher's death, the President said, ''Mr. Fisher helped all Americans repay the tremendous debt we owe to our men and women who every day risk their lives to defend our country and to advance the cause of freedom around the world. I am proud to present him with the Presidential Medal of Freedom last Fall.''

I am proud to stand in support of House Joint Resolution 46, and I urge my colleagues to support this measure.

Mr. Speaker, I rise in strong support of H.J. Res. 46, which would confer status as an honorary veteran of the U.S. Armed Forces on Zachary Fisher.

I regret that action on this resolution was not completed prior to Mr. Fisher's death earlier this year, but I believe that approval of this joint resolution will be meaningful to Mr. Fisher's widow, Elizabeth, and to the entire Fisher family. Certainly, it will be a gesture of tremendous importance to the men and women who serve in America's Armed Forces and to America's veterans.

To put it simply, Zachary Fisher loved his country—and he loved those who serve America through their military service. The contributions made by Mr. and Mrs. Fisher which have enhanced the lives of military personnel and their families—and have honored their service and sacrifice—are extraordinary.

Saddened by the devastating effects on Marines and their families of the 1983 terrorist bombing of the Marine Barracks in Beirut, the Fishers established the Zachary and Elizabeth Fisher Armed Services Foundation.

Through the foundation, the Fishers provided financial assistance to each of the families affected by this terrible tragedy. Subsequently, they established a scholarship program funded by the foundation and, since 1987, more than 700 students have gone to school as a result of the foundation's assistance.

In 1990, the Fishers established the Fisher House Program, providing more than $15 million to establish comfortable temporary housing for the military families of patients receiving care at military and VA hospitals. More than 25 Fisher Houses have opened their doors and are now available to military families around the country.

The Fishers have also provided the funding for charitable efforts such as the establishment of a child care center at the Camp Pendleton Marine Base and development of the CAMP Program, which provides services for the disabled children of military personnel at Lackland Air Force Base.

The list of additional acts of generosity by Zachary and Elizabeth Fisher is almost endless. Mr. Fisher led the effort to save the aircraft carrier *Intrepid* from the scrap heap and contributed more than $25 million to convert the carrier into the *Intrepid* Sea-Air-Space Museum, located in New York City.

He served as honorary chairman of the board of directors of the Marine Corps Scholarship Foundation and established the annual Chairman of the Joint Chiefs of Staff Award for Excellence in Military Medicine.

Zachary Fisher was also a strong supporter of the Jewish Institute of National Security Affairs, the George C. Marshall Foundation, the United Jewish Appeal, and countless other organizations.

Mr. Speaker, Zachary Fisher was a remarkable man who lived an extraordinary live. In his statement regarding Mr. Fisher's death, President Clinton said, ''* * * Mr. Fisher helped all Americans repay the tremendous debt we owe to the men and women who every day risk their lives to defend our nation and advance the cause of freedom around the world. I was proud to present him with the Presidential Medal of Freedom last fall.''

I am proud to stand in support of H.J. Res. 46—and I urge my colleagues to support this measure.

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

Mr. STUMP. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE), chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, among the pantheon of great American patriots belongs the name of the late Zachary Fisher. His countless, and I mean countless, acts of kindness towards our military and their families over a long and full life are legendary. He went out and bought a carrier, the Intrepid, for several millions of dollars, and brought it to New York and turned it into a museum that still operates every day to show people the great exploits of our military.

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Beyond what he has done for the military, his fight against the dread disease of Alzheimer's led him to found the Fisher Center for Alzheimer Research in New York, and when this dread disease is conquered it will be Zach Fisher and the medical team he has assembled, along with David Rockefeller and the president of the center, Mr. Michael Stern, who will deserve an important share of the credit.

Zach Fisher lived a long life and he never stopped helping people, caring for people. He had a giant heart, a giant soul that animated one of God's very special people. I grieve his loss but I am so happy that he ever lived and I knew him and he was my friend.

As a veteran, I am very proud to have Zachary Fisher declared through this act, legislative act, an honorary veteran. If anyone should be an honorary veteran, Zach Fisher should be. I want to thank the gentleman from Arizona (Mr. STUMP), the chairman of the Committee on Veterans' Affairs, for his thoughtfulness in bringing this forward, and the gentlewoman from New York (Mrs. MALONEY), whose love and affection and concern for Zach Fisher manifests itself in drafting this marvelous resolution. I congratulate them both.

Mr. EVANS. Mr. Speaker, I yield 5 minutes to the gentlewoman from New York (Mrs. MALONEY).

(Mrs. MALONEY of New York asked and was given permission to revise and extend her remarks, and include extraneous material.)

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman from Illinois (Mr. EVANS) for yielding me this time.

Mr. Speaker, I rise in strong support of House Joint Resolution 46 that would confer honorary veteran status on a true American patriot, an individual who supported not only our Armed Forces and the Department of Defense but also the many Americans and their families at home, Zachary Fisher.

Zach was an extraordinary man. He received every single honor our country could bestow on him, save one. He wanted to be a member of the military. He wanted to be a veteran.

The bill before us today, which I authored along with the ranking member of the Defense Committee on Appropriations, the gentleman from Pennsylvania (Mr. MURTHA), the chairman of the Committee on Appropriations, the gentleman from Florida (Mr. YOUNG), and the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), named Zachary Fisher an honorary veteran.

This great honor has been given only once before in the history of our great Nation. This act before us, which I thank the gentleman from Texas (Mr. SESSIONS), the gentleman from Arizona (Mr. STUMP), and the ranking member, the gentleman from Illinois (Mr. EVANS) for helping me bring before Congress today, makes Zachary Fisher an honorary veteran. It would have made him tremendously happy because it puts an official seal on what he already was, a member of the military family.

Zachary Fisher had many accomplishments, activities and interests, but his great love was the military. I remember him explaining to me why it was so important to him. He tried to enlist during World War II but was turned down for physical disabilities which he received as a young man working on construction sites. Since he could not serve, he was especially grateful for those who served for him, for us, for our Nation. He spent the rest of his life serving the military in any way he could.

Zach Fisher knew that it was not the accumulation of great wealth which he valued but the judicious use of that wealth for humanity. He often said to me, and I quote, it is not what I make in life but what I give that lives after me, and that lasts for eternity. By that

standard, he was tremendously successful.

Zach and Elizabeth Fisher created many foundations and found numerous ways to help the military. He saved the USS Intrepid from becoming scrap metal and turned this great ship into a sea-air-space museum in New York City Harbor. His dedication turned the USS Intrepid into a nationally-recognized museum with more than 500,000 visitors annually. Through the Fisher Armed Services Foundation he created the first Fisher House in 1990 to allow families to stay near their loved ones who undergo surgery and treatments at military hospitals and veteran medical centers. We all know the financial and emotional strain on a family when a loved one is in the hospital. Fisher Houses give these families a comfortable and affordable option near their loved ones. There are now more than 25 Fisher Houses across the United States from here in Washington, D.C. to San Diego, California. Mr. Fisher further expanded his foundation to provide scholarships to those who have served in the military. He provided scholarships to the sons and daughters of families who have lost a loved one in service so that they could go to college. More than 700 students have been able to go to college, a goal that might otherwise not have been there for them.

Zach's most recent contribution was to create a partnership with the Rockefeller Foundation for a state of the art research center on Alzheimer's disease at Rockefeller University. In the halls of the Intrepid, there are numerous honors and awards on the walls. From each branch of the armed services, the Department of Defense and Veterans Affairs, the major veterans organizations, to the Presidential Medal of Freedom, Zach Fisher has been recognized for his contributions to the military. Now today we have the opportunity to give him the one award he desired the most, the honor of being a veteran of the armed services of the United States.

I would like to add to the RECORD the listing of all the veterans organizations that endorse this legislation.

I cannot conclude better than using the words of Zach Fisher's best friend Michael Stern. At Zach's funeral, he said, and I quote, ''I sought fitting words to say good-bye to my friend. I could not improve on the words of Ronald Reagan. Well done, soldier.''

The following Organizations support H.J. Res. 46:

Air Force Association (AFA), Air Force Sergeants Association (AFSA), The American Legion Rhinelander East Side Post 6, Army Aviation Association of America (AAAA), Assn. of Military Surgeons of the United States (AMSUS), Association of the United States Army (AUSA), Disabled American Veterans, Commissioned Officers Assn. of the U.S. Public Health Service, Inc., CWO and WO Association of the U.S. Coast Guard, Enlisted Association of the National Guard of the United States.

Fleet Reserve Association (FRA), Gold Star Wives of America, Inc., Jewish War Veterans of the U.S.A., Marine Corps League, Marine Corps Reserve Officers Association (MCROA), National Guard Association of the United States (NGAUS), National Military Family Association (NMFA), National Order of Battlefield Commissions (NOBC), Naval Enlisted Reserve Association (NERA), Naval Reserve Association.

Navy League of the United States, Reserve Officers Association (ROA), The Military Chaplains Association of the U.S.A., The Retired Enlisted Association (TREA), The Retired Officers Association (TROA), The Society of Medical Consultants to the Armed Forces, United Armed Forces Association, U.S. Coast Guard Chief Petty Officers Assn., U.S. Army Warrant Offices Association, United War Veterans' Council of New York County, Veterans of Foreign Wars.

Mr. STUMP. Mr. Speaker, I yield 6 minutes to the gentleman from Florida (Mr. YOUNG), the chairman of the Committee on Appropriations.

(Mr. YOUNG of Florida asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of House Joint Resolution 46, which bestows honorary veteran status upon Mr. Zachary Fisher.

Zach Fisher was a true American hero who spent most of his adult life working behind the scenes in support of the men and women he loved who served in our Nation's military. It is most fitting today that we grant honorary veteran status to a man who longed to serve our Nation. Unfortunately, a construction injury left Zach unable to serve on active duty. He was turned down by the services because of a serious knee injury when he tried to join the Marine Corps during World War II. Unable to serve on the battlefield, he sought other ways to help those he so envied who served here and abroad, in war and in peacetime.

The American public has probably never heard or read of Zach Fisher's good will and generosity, but he wanted it that way.

When 241 Marines died in the tragic 1983 Beirut bombing, Zach Fisher sent each of the victim's children a $10,000 check for their college education. The total for the 113 children was $1,130,000.

When 47 U.S. sailors died in a 1989 accident aboard the USS Iowa, Zach Fisher sent each family who lost a loved one a check for $25,000 to help with their expenses at a very difficult time in their life.

In all, with no public fanfare, the Fisher Armed Services Foundation has sent out checks to more than 600 families of service members who paid the ultimate price. It was Zach Fisher's way of saying thank you from a grateful nation and from a grateful Fisher family.

His legacy of generosity and patriotism does not end there. Years ago, he learned of the plight of a wife of a seriously ill member of our military who could not afford a hotel room near the Bethesda Naval Medical Center. She had to ride two buses each way just to visit him at the hospital.

Zach came up with the idea to build a house on the hospital's grounds where family members could stay and be near their loved ones in their greatest time of need.

Today, there are 26 Fisher Houses on the grounds of U.S. military and veterans hospitals and two more under construction, including the first one abroad in Germany, where U.S. troops are stationed. These are beautiful homes that allow family members to be together at a most trying time in their lives. It is yet another way Zach Fisher and his family serve those who serve our Nation.

To honor the legacy of courage and bravery with which Americans serve our country, one of Zach Fisher's greatest and proudest achievements was resurrecting the USS Intrepid into a living, floating museum. It took 17 years and more than $25 million to open the Intrepid Sea-Air-Space Museum, the world's largest marine museum, which is now docked in Manhattan's Hudson River. It is one of New York City's most popular tourist spots, and hosts more than 600,000 visitors annually.

Every May, it has become a New York tradition to kick off Fleet Week activities with a parade of ships from all over the world, usually watched over by Zach Fisher aboard the deck of the Intrepid. Oftentimes, he was joined by former presidents and our Nation's highest ranking military leaders. They all recognize how much Zach Fisher and his wife Elizabeth have given to our Nation's service members. They know his gifts came from the heart. He never sought public recognition for his good deeds, just as those who fought on the ground, in the air and at sea never sought public recognition for their acts of bravery.

For all his quiet yet good work, President Clinton awarded Zach Fisher the 1998 Medal of Freedom, one of our Nation's highest civilian honors.

Mr. Speaker, Zach Fisher's largess went far beyond those who serve in uniform. He loved children and several years ago he learned of a program at Lackland Air Force Base in Texas to care for a small population of special children of service members. The Department of Defense brings these children with severe physical problems and learning disorders together at Lackland to meet their special educational needs.

When Zach Fisher learned that this program was housed in two old World War II quonset huts, he decided to do something about it. Today, we have the Admiral Jeremy Boorda Center for Children with Special Needs; a brand new, state-of-the-art facility that provides the best care possible for these children.

One of the two Fisher Houses now under construction will serve as a Children's Inn for the families of children being cared for at the Boorda Center.

In addition to his concern for our Nation's youngest citizens, Zach also was concerned about the terrible toll that Alzheimer's has taken on older Americans. He responded as only he could by

establishing the Fisher Center for Alzheimer's Disease Research at the Rockefeller University in New York. This world renowned facility is sponsoring leading-edge research into the causes of and cures for Alzheimer's disease.

As my colleagues can see, Zach Fisher never responded in a small way to a problem. He confronted problems large and small with the same spirit and energy and he always got results. In the end, those results have meant a better quality of life for the families of service members, for children and for older Americans.

Mr. Speaker, the military coalition which represents all of our Nation's major veterans organizations has endorsed this legislation because they know how much Zach Fisher loved veterans and gave to our service members.

I want to commend my colleague from New York CAROLYN MALONEY, for introducing this resolution, and my good friend from Illinois HENRY HYDE for joining with me as an original cosponsor as we honor this unique special American. We all share a certain sense of sadness that Zach Fisher died last June before we could complete action on this legislation. His life-long dream was to join those he most loved as a veteran of our U.S. services. Today, for just the second time in our nation's history, we grant that special status as an honorary veteran.

The Military Coalition, which represents all of our nation's major veterans service organizations, has endorsed this legislation because they know how much Zach Fisher loved veterans and gave to our service members.

Mr. Speaker, when I first heard about Zack Fisher, I told many of my colleagues that this person was just too good to be true. There couldn't be anyone doing as much for his nation so quietly and with so little fan fare. It wasn't until I first met Zach Fisher that I found out he was even more kind and caring than the reports I had received. Nothing brought a bigger smile to his face than a hug or handshake from an enlisted service member or from a child visiting the INTREPID.

Today I know Zach Fisher is looking down upon this House with that same glowing smile as a grateful nation says thank you to a true American hero who devoted his life and his generosity to our service members. He now stands shoulder to shoulder with all those past, present, and future who wear the uniform and who will forever be honored as veterans of our great country.

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. FILNER).

Mr. FILNER. Mr. Speaker, I thank the gentleman from Illinois (Mr. EVANS) for yielding me this time, and I thank the chairman for getting this resolution to the floor so quickly, and the ranking member for his support, and the gentlewoman from New York (Mrs. MALONEY) for this marvelous resolution.

I think we have heard how important and how worthy Zach Fisher was, and without understating those achievements I would like to take a few minutes of the time that the Committee on Veterans' Affairs has on the floor today to recognize another person who I think is an honorary member of the Committee on Veterans' Affairs, and that is the staff director of the Subcommittee on Benefits of the Committee on Veterans' Affairs on the Democratic side, Jill T. Cochran. She is retiring from this institution after 25 years of service. Many of us have been taught about the benefits that the veterans are due, from Jill Cochran.

□ 1515

I would say her investment in our veterans is legendary. She served for our esteemed colleague, former Member, Congressman Sonny Montgomery, and made a major contribution to the development of the Montgomery G.I. bill.

She helped to formulate the Transition Assistance Program for separating service members to ease their transition from military to civilian employment. She worked closely on updating the Reemployment Rights for Veterans Program. She has had a great interest in Vocational Rehabilitation Program for Disabled Veterans, just to mention a few of the areas which she has contributed.

She has received awards for her service to veterans for virtually every organization that serves veterans in our Nation. She has worked for such Chairs and ranking members as Bill Hefner, Marvin Leath, Wayne Dowdy, Tim Penny, Sonny Montgomery, the gentlewoman from California (Ms. WATERS), the gentleman from Illinois (Mr. EVANS), and when he was a Congressman, Senator TOM DASCHLE.

A mere recitation of Jill's accomplishments do not do her justice. She is a brilliant staff member who is warm and caring, funny and totally charging. She cares deeply about her work, her colleagues, and the Members of Congress for whom she works. But most of all, she cares for our veterans. She, I think, is worthy of the praise of many of us who want to express our gratefulness for her service on the Committee on Veterans' Affairs.

So I join my colleagues, both on our committee and the Congress as a whole, to thank Jill Cochran for her professionalism, her dedication, her contribution to the veterans of our Nation. We will miss her.

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

Mr. FOLEY. Mr. Speaker, let me thank the gentleman from Arizona (Chairman STUMP), the gentlewoman from New York (Mrs. MALONEY) for their leadership on this very, very important resolution today.

I come here today to also honor our good friend, Zachary Fisher. Everything has been said that probably can be said about his wonderful dedication to our veterans. Without question, there was no greater hero in the eyes of veterans, of current active-duty personnel, of all the military apparatus than Zachary Fisher.

He not only led the fight, he put his money where his mouth was. He dedicated so much financial resources to American sailors and infantrymen that it is just beyond belief.

But another side of Zachary Fisher I wanted to articulate was the love he had for his friends and his family. His wife Elizabeth, many have spoken about today, was suffering from Alzheimer's disease. Many people in his financial position would be able to afford around-the-clock nurses, which he did, and would have been able to keep his wife in a quiet, private place. But Zachary insisted at every function that Elizabeth accompany him to get whatever joy of life remained for that wonderful woman.

Whether we were at La Cirque in New York or the Manalapan Club in Palm Beach, he always insisted that Elizabeth be there at his side, at his table. He would always at any event, whenever they were showering love and affection on Zachary, would stop and say, had it not been for Elizabeth, I could not have done all I have done. He honored and loved his wife and dedicated so much resources to the fight for a cure for Alzheimer's, again a true credit to him.

Billy White is his chief of staff. I know he was like a son to Zachary, and he made Zachary's last years on this Earth exceedingly comfortable. He took care of every arrangement, every detail, and made certain that Zachary wanted for nothing. I know he left this world appreciative of the fact that Billy White served him so capably as chief of staff for his permanent office as well as the chief cheerleader for the Intrepid.

We mentioned the Intrepid, which has seen many great, great extravaganzas on behalf of charities throughout New York, led to the revitalization of the waterfront and the Westside Highway, a phenomenal achievement by one man, one individual to honor the great ship Intrepid.

Mike Stern was mentioned, again a wonderful ally, close advisor, trusted friend who worked tirelessly to make certain Zachary's wishes on every project that he undertook were completed to great success and to great satisfaction.

So as we pay tribute to this veteran, more than anything else than we just speak the name Zachary Fisher, let us hope it instills in the young people of America that freedom is not free, that men and women have fought for the right for us to debate on this House floor, for us to be considered the greatest Nation on Earth because we have the strength and military superiority, came because of people like Zack Fisher who all, while they could not serve personally, dedicated themselves financially to make certain those that did were rewarded, not only in spirit, but in deed.

I know others join me today in saluting this veteran, Zachary Fisher, as we honor and confer on him this status. He

has deserved every mention today in the CONGRESSIONAL RECORD, and we salute him in heaven and thank him for his work here on Earth.

Mr. EVANS. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, today, this House honors Mr. Zachary Fisher for his generous and tireless efforts on behalf of America's servicemen and women and veterans. I never knew Mr. Fisher personally, but his spirit of gratitude for our veterans and their sacrifices symbolizes America's debt of gratitude owed to all other veterans.

In the spirit of Mr. Fisher, I also want to say thank you to another citizen who has dedicated her adult lifetime to service for our veterans, someone who is about to retire, my friend, the veterans' friend, Mrs. Jill T. Cochran.

For 25 years, Mrs. Cochran has worked as a key staff member on the House Committee on Veterans' Affairs. For the past 15 years, Mrs. Cochran has been the Democratic staff director of the VA Subcommittee on Benefits, formerly the Subcommittee on Education, Training, Employment and Housing. It is amazing that, in this capacity, she has worked with nine subcommittee chairmen and ranking members.

Millions of veterans, whether they know it by name or not, have benefited from Mrs. Cochran's appreciation for and love of veterans.

Her quiet but effective fingerprints can be found on such major programs as the Montgomery G.I. bill, the Emergency Veterans Job Training Act, vocational rehabilitation for service, disabled veterans, and oversight of veterans preference in Federal jobs, only to mention a few.

Mrs. Cochran has received more awards from veterans' organizations than any of us has time to list. But I have to believe that, as appreciative as I know Jill must be of these awards, I have got a feeling that her greatest satisfaction in her 25 years of work for veterans would be that her father, a distinguished veterans of World War II and former chairman of the House Committee on Veterans' Affairs, would be proud of her.

Mr. Teague, Tiger Teague, affectionately known as Mr. Veteran in this House for so many years, is now in his final resting place next to General Omar Bradley, the people's general, in Arlington National Cemetery.

But I have to think that his spirit is soaring today with the belief, the understanding that his daughter has carried on the Teague family tradition of service to America's veterans.

To Jill Cochran, my friend, I say, thank you. To Mrs. Freddie Teague, Jill's mother, I say, Job well done. To my political mentor, Tiger Teague, I say that his spirit and legacy lives on through his family and his daughter.

My colleagues, it is amazing to think that, in a few days, for the first time since 1946, there will not be a Teague in the U.S. Capitol, fighting for veterans in association with the House Committee on Veterans' Affairs. But I know that the Teagues' love of veterans and their impact upon them will last far into the 21st century.

To Zachary Fisher, to Jill Teague Cochran, let me say, on behalf of all of my colleagues, thank you for not letting our veterans ever be forgotten.

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

Mr. NADLER. Mr. Speaker, I rise today in strong support of House Joint Resolution 46, to confer honorary veteran status upon Zachary Fisher.

Zachary Fisher made his career in the construction business and contributed some of the most important buildings to the New York City skyline. But his passion was for the men and women who served this Nation in the military. He championed this cause up until his death earlier this year.

Zack Fisher was unable to serve in the military himself because of a leg injury sustained in a construction accident, but he became perhaps this Nation's most devoted advocate for the armed forces. Throughout his life, he dedicated himself to causes that supported and honored the veterans and service members of the United States military. He served as honorary chairman of the board of directors of the Marine Corps Scholarship Foundation and the Coast Guard Foundation.

He established the annual Chairman of the Joint Chiefs of Staff Award for Excellence in Military Medicine. He founded the Fisher House to build homes for families of hospitalized military personnel. He gave generously to numerous philanthropic organizations that aid service men and women.

But perhaps his most important legacy was the creation of the Intrepid Museum Foundation. In 1978, he spearheaded an effort to save the battle-scarred aircraft carrier Intrepid from the scrap heap and turned it instead into the Intrepid Sea-Air-Space Museum in 1982. Located on the Hudson River in my district, the Intrepid is a floating museum that hosts over 500,000 visitors each year of all ages and from all parts of the world. It educates thousands of school children each year and offers after-school and summer programs as well as vocational training and counseling.

His tireless advocacy of causes related to the U.S. armed forces have earned him the Horatio Alger Award, the Presidential Citizens Medal, and the Presidential Medal of Freedom, our Nation's highest civilian honor.

Mr. Speaker, Zachary Fisher gave his life giving to men and women who serve this Nation in the armed forces, even though he himself was not able it. I know of no better way to honor his memory than to confer upon him the status of honorary veteran. I myself consider myself privileged to have known him.

Mr. EVANS. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SESSIONS).

Mr. SESSIONS. Mr. Speaker, I thank the gentleman from Arizona (Mr. STUMP), the chairman of the Committee on Veterans' Affairs for yielding me the time.

Mr. Speaker, I include for the RECORD the following letters honoring Zack Fisher, written by political and military leaders, as follows:

JUNE 7, 1999.

Mrs. ELIZABETH FISHER,
Intrepid Museum Foundation, New York, NY.

DEAR ELIZABETH: It was with an extremely heavy heart that I heard of Zachary's passing. Please know that Zandi and I are praying for you and your entire family as you struggle to cope with this tragedy. I have no illusion that my personal pain is in any way comparable to your own. I do, however, want you to know that Zandi and I, and your entire Marine Corps family, are grieving with you and want to help in any way we can. We are here for you. If you need anything—anything at all—do not hesitate to ask.

Zachary was one of the greatest patriots this country has ever known. He did so much for our service men and women; it is difficult to put into words what his life meant to us. He was the quintessential ''good man'' and a fine American. We shall—all of us—miss him very much.

I am so very sorry for your loss. May God bless you and hold you in the palms of His hands.

Sincerely,

C.C. KRULAK,
General, U.S. Marine Corps,
Commandant of the Marine Corps.

CHIEF OF NAVAL OPERATIONS,
June 29, 1999.

Mrs. ELIZABETH FISHER,
Intrepid Museum Foundation, New York, NY.

DEAR ELIZABETH: Garland and I were saddened to hear of the recent passing of your beloved Zachary. He was a great friend and a truly generous patriot. Our lives are enriched by his friendship and example.

Garland joins me in sending our deepest personal sympathy, and want you to know that you and your family are in our thoughts and prayers. If there is anything we can do for you, please let us know. God Bless.

Sincerely,

JAY L. JOHNSON,
Admiral, U.S. Navy.

AIR COMBAT COMMAND,
OFFICE OF THE COMMANDER,
Langley A.F. Base, VA, June 23, 1999.

Mrs. ELIZABETH FISHER,
The Intrepid Museum Foundation,
New York, NY.

DEAR ELIZABETH: On behalf of the men and women of Air Combat Command and the many lives touched by a lifetime of selfless dedication, I offer our heartfelt sympathy on the passing of your beloved husband, Zach. We mourn with you and offer our most sincere condolence in this time of sorrow.

Zach served as a pillar of strength and a beacon of hope. A grateful nation is indebted for the many patriotic and charitable contributions. These noble causes were each founded in a genuine concern for the welfare of his fellow Americans. Though he can no longer be with us, he will forever live in our minds and hearts.

While words cannot begin to ease the pain, we wish you to know that all of us are deeply

concerned with what you and the entire Fisher family are going through. We hope that our prayers can provide some small comfort in the days ahead.

Sincerely,

RALPH E. EBERHART,
General, USAF Commander.

THE COMMANDANT OF THE
UNITED STATES COAST GUARD,
Washington, DC, June 22, 1999.

Mrs. ELIZABETH FISHER,
The Intrepid Museum Foundation,
New York, NY.

DEAR ELIZABETH: Kay and I speak for the entire Coast Guard family when we offer our condolences to you and the entire Fisher family. Zach was truly an angel on earth, and we will miss him daily.

My personal goal in life will always be to leave evidence of good will behind me. There was no better example for me to follow than Zach. Please take comfort in the reality that literally thousands of lives have been left the better because he cared and acted.

Our fondest memory may be the honor you both gave us to be included at your 52nd wedding anniversary celebration. Watching you dance and love each other so completely offered us great insight about what marriage and devotion should be all about.

You will be kept in our prayers.

Love,

JIM AND KAY LOY.

JUNE 7, 1999.

Mr. WILLIAM BRYAN WHITE,
Chief of Staff, Office of Zachary Fisher, New York, NY.

DEAR BILL: All of us, of course, are deeply saddened by the loss of Zachary, but share your conviction that he has gone on to a rich reward.

Mouza and I ask that you send our thoughts and prayer on to the family and to all of you who loved him.

We shall never see his likes again.

Sincerely,

E. R. ZUMWALT, JR.,
Admiral, USN (Ret.).

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, June 4, 1999.

Mrs. ZACHARY FISHER,
New York, NY.

DEAR ELIZABETH: Please accept Carolyn's and my sincere condolences on the death of Zachary. We are both greatly saddened and profoundly pained. On behalf of the men and women of the Armed Forces and Joint Chiefs of Staff, please accept heartfelt sympathy at his passing.

Zach was not only a personal friend, he was a tremendous ally of America's military men and women, and their families. An inspiring leader and a crusader for all that is right about America, he was a pillar of strength for the countless soldiers, sailors, airmen, marines, and coastguardsmen he helped over the years. Like the sailors of his beloved *Intrepid*, as long as men and women go down to the sea in ships, he will be remembered as the champion of our military families and a great American, and he will be sorely missed.

For all his greatness, for all his magnanimity, and for all his generosity, I know that he considered his crowning achievement and grandest blessing to be his long and loving marriage to you.

May the loving memories of his life be a source of comfort to you and your family. With profound regret for your loss, Carolyn's and my prayers are with you and your family.

Sincerely,

HENRY H. SHELTON,
Chairman of the Joint Chiefs of Staff.

TO THE INTREPID FAMILY: The death of Zachary Fisher, an American patriot, is a great loss to this country and the Department of Defense. Mr. Fisher's generosity to service members has been enduring and overwhelming and, for a private citizen, perhaps unequaled. His actions went beyond simple philanthropy; they spoke to the true needs of men and women in uniform. Along with his wife, Elizabeth, Mr. Fisher was widely known for standing with military families in their darkest hours. In the midst of tragedies like the bombing of the Marine barracks in Beirut and the USS Iowa gun turret explosion, the Fishers provided financial assistance to over 340 of these grieving families. They also aided service members and their families who could not afford college tuition by awarding over 700 scholarships.

One of the Fishers' most enduring legacies is the 26 Fisher Houses they build around the country at a major military and Veterans Administration hospitals over the past nine years. These temporary living facilities have been ''homes away from home'' for tens of thousands of families who could not otherwise afford local lodging while tending loved ones seriously injured or undergoing major medical procedures. Mr. Fisher also has pledged money for military child-care centers and programs for disabled children of military personnel.

Zachary Fisher shone a light on military history and helped inspire new generations of service members with the Intrepid Museum, the aircraft carrier that was on the verge of being scrapped. This vessel became the foundation of New York's Intrepid Sea-Air-Space Museum, which hosts over 500,000 visitors annually.

Mr. Fisher's deeds stand as symbols of both our nation's support and his love for the military men and women who serve America. For these and other deeds of service, President Clinton in 1998 conferred upon Mr. Fisher the Medal of Freedom, our highest civilian award. We have lost not only a supporter, but a very dear friend. His contributions will live on, and his legacy will be generations of gratitude from America's military community.

WILLIAM S. COHEN,
Office of the Secretary, DOD

SECRETARY OF THE ARMY,
Washington, DC, June 8, 1999.

Mr. M. ANTHONY FISHER,
Senior Partner, Fisher Brothers, New York, NY.

Dear TONY: Eva and I offer our deepest condolence on the death of your uncle.

The men and women of the U.S. Army and their families, who have benefited so much from the tremendous generosity of Mr. and Mrs. Fisher, will forever hold his memory dear. I hope that you will find great comfort in the knowledge that his legacy lives on at our installations around the world.

Our thoughts and prayers are with you and your family.

Sincerely,

LOUIS CALDERA.

SECRETARY OF THE AIR FORCE,
Washington, DC, June 4, 1999.

Mrs. ZACHARY FISHER,
Intrepid Museum Foundation,
New York, NY.

DEAR MRS. FISHER: On behalf of all the men and women of the United States Air Force, I want to express our deepest sympathy to you and your family at the passing of your beloved husband. America's men and women in uniform have been the beneficiaries of Zachary's unwavering patriotism and total devotion to his country. While he will be greatly missed, he will never be forgotten. He will always remain in the hearts of those he helped in their time of need. While many people do impressive deeds, Zachary's legacy of caring eclipses all.

Although there is little that can be said to lessen your grief, Monnie and I extend our heartfelt condolences. You are in the thoughts and prayers of a very grateful Air Force family.

Sincerely,

F. WHITTEN PETERS,
Acting Secretary of the Air Force.

VICE CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
Washington, DC, June 7, 1999.

Mrs. ELIZABETH FISHER,
Intrepid Museum Foundation,
New York, NY.

DEAR ELIZABETH: Dede and I learned of Zach's passing with great sadness and want to express our heartfelt condolences. He was truly one of the Defense Department's most distinguished and respected friends, and will be sorely missed. During this most difficult time, may the knowledge that countless uniformed personnel and their families have and will continue to be blessed by his life of dedicated service provide comfort to you and your family.

Please know that you are in our thoughts and prayers. If there is anything at all that Dede and I can do to help, please don't hesitate to call on us.

Most sincerely,

JOSEPH W. RALSTON,
General, USAF.

UNITED STATES ARMY,
THE CHIEF OF STAFF,
July 8, 1999.

Mrs. ZACHARY FISHER,
Intrepid Museum Foundation,
New York, NY.

DEAR MRS. FISHER: Patty and I wish to express our heartfelt condolences to you. The death of Zachary Fisher is a great loss to America's Army. The contributions he made to the welfare of soldiers and their families is a great part of his legacy. It is a legacy that will live on through the many foundations he established that will continue to serve not only the military but all of America.

The thoughts and prayers of soldiers all over the world are with the entire Fisher family.

Respectfully,

ERIC K. SHINSEKI,
General, United States Army.

JUNE 11, 1999.

Ms. SUNNY KENOSKY,
Intrepid Sea Air Space Museum,
New York, NY.

DEAR SUNNY: Pat and I were mortified that we simply were unable to attend Zach's service on June 7. Unfortunately we were hosts of a similar service here in Washington for a deceased long time employee and could not change the circumstances.

Be aware that you and the family are in our prayers at this difficult time. You, of course, can be very proud of Zack who was above all a patriot and philanthropist of unmatched generosity.

Pat and I were proud to have known Zack. If feasible, please convey our condolences to Elizabeth.

Sincerely,

ALEXANDER HAIG.

JUNE 9, 1999.

WILLIAM BRYAN WHITE, ESQ.:

DEAR MR. WHITE; I was greatly saddened to receive your fax telling me of Mr. Fisher's death. I would be most grateful if you would pass on to his family my deepest sympathy at their loss.

I shall always remember my own visit to the Intrepid Museum. Mr. Fisher was an inspiration to all those who knew him and his infectious enthusiasm brought history to life. His remarkable achievement in preserving such a vital part of the past as a reminder to future generations of the sacrifice made by the United States armed forces will be a permanent memorial to him.

With all kind thought and sympathies,

Your sincerely,

MARGARET THATCHER

Mr. Speaker, I rise today in support of H. Con. Res. 46, legislation to confer honorary veterans status on Zachary Fisher. Designating Zachary Fisher an honorary veteran offers Congress an opportunity to express our gratitude to an individual who has done so much for our country and for those who fight to protect our freedom.

We also give thanks and recognition to his wife, Elizabeth, and his family for their lifetime support of the United States armed forces.

Zachary Fisher selflessly gave his time, energy, and strength to the country that he loved very much. As the United States became involved in World War II, Zack Fisher quit his job in the construction industry with the hopes of joining the armed forces, but was denied enlistment due to a leg injury.

Being unable to join the armed forces was devastating to Zack Fisher. However, it did not take him long to find another way to participate in the war effort. He used his construction know-how to build coastal defenses along our United States coast along with the Army Corps of Engineers.

After the war, Zack Fisher achieved great success in the construction industry, helping to shape the skyline of New York City. Despite being unable to serve in the military, Zack Fisher decided to share his success with those who served on the battlefield to protect our freedom and was especially generous in helping the families of those who died for our country.

Mr. Fisher spearheaded an effort to preserve the USS Intrepid as a floating museum honoring American veterans. The Intrepid, which is now permanently docked in Manhattan, commemorates the bravery and sacrifice of our own forces and is visited by hundreds of thousands of Americans each year.

Mr. Fisher, along with his wife, also established the Elizabeth and Zachary Fisher Armed Services Foundation to provide financial assistance to families of those who gave their lives in service to our country. The foundation also provides scholarships to the children of those heroes.

In 1990, the Fishers were told the story of a wife of veterans who could not afford to stay at a hotel near the VA hospital where her husband was receiving treatment. Inspired by this, the Fishers built homes near veterans hospitals designed to keep family members comfortable and to be close to their loved ones. Despite this generosity, Mr. Fisher never stepped into the limelight. He chose to let his work and his gifts speak for themselves.

Mr. Fisher never stopped working for our Nation's veterans until his death last summer at the age of 88.

□ 1530

Mr. Speaker, Zachary Fisher's generosity and patriotism is an inspiration to all of us. Congress should recognize his legacy of respect for those who protect our freedom by passing this legislation and conferring honorary veteran status to Zachary Fisher.

Mr. Speaker, Zachary Fisher was a personal friend of this country; he was a fine American, patriot, and a longtime friend to my family and my father, who knew him when he served in the Bush and Reagan administrations. I also greatly appreciate knowing Zachary Fisher.

Mr. Speaker, I would like to thank also, in particular, the gentlewoman from New York (Mrs. MALONEY) for sponsoring this legislation, as well as the chairman of the committee, the gentleman from Arizona (Mr. STUMP); and I would like to thank the Committee on Veterans' Affairs for working with me on this to bring it to the House floor.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Speaker, I thank the gentleman for yielding me this time, and on behalf of the family, Mrs. Elizabeth Fisher, Anthony Fisher, Richard Fisher, Arnold Fisher, Michael Stern, Billy White, and many others, I would like to place in the RECORD, along with my colleagues in this bipartisan effort, letters from President Clinton, former President Bush, the former First Lady, Nancy Reagan, prominent religious leaders, political leaders, and many, many friends and supporters.

THE WHITE HOUSE,
Washington, DC, June 9, 1999.

ELIZABETH FISHER,
One Intrepid Square, West 46th & 12th Avenue, New York, NY.

DEAR ELIZABETH: We were so saddened to learn of Zachary's death and wanted to extend our deepest sympathy to you and your family during this difficult time.

As demonstrated by Zachary's remarkable career and extraordinary awards such as the Presidential Citizens Medal and the National Medal of Freedom, he was a noble and wonderful individual who well deserved his reputation as a patriot and humanitarian. His contributions to our country are an example for us all. From his support to American armed forces and their families, to his distinguished commitment against the struggle of Alzheimer's disease, he'll long be remembered and deeply missed by those who were privileged to know him and to be inspired by his generosity and service.

With lasting gratitude and respect to Zachary's accomplishments, we send our heartfelt condolences to you, Larry, Ginny, and all of your family. We'll be keeping you all in our prayers.

Sincerely,

HILLARY RODHAM CLINTON.
BILL CLINTON.

GEORGE BUSH,
June 6, 1999.

DEAR ELIZABETH, Your husband Zach, our friend Zach, was just about the kindest most generous man I ever met. Besides all that he was what I would call a genuine patriot.

None of us who believe in and back our armed forces will ever forget all he did in support of the military and their families.

Barbara and I will never forget his many kindnesses to us. We feel we have lost a dear friend.

In these days of sadness and grief we send you our most sincere and respectful condolences.

GEORGE BUSH.

OFFICE OF NANCY REAGAN,
June 7, 1999.

Mrs. ZACHARY FISHER,
1 Intrepid Square, West 46th Street & 12th Avenue, New York, N.Y.

DEAR ELIZABETH, Ronnie and I were so sorry to learn about Zachary's death last Friday. After fifty six years of love, marriage and partnership that knew no bounds, there are certainly no words to ease the pain at this difficult time. However, we want you to know that you are in our thoughts and prayers.

Zachary Fisher was truly a remarkable man, who loved life and served as an inspiration to many. He rose from humble beginnings, worked hard for many years and then, when he could have taken an easy retirement, he began a whole new career of ''giving.'' Zach gave and gave and just when everyone else thought there was no more to give, he always came through again.

There are so many examples, and although Zach was never looking for the credit or even a pat on the back, we all know the truth. It is because of him that young people have attended college with badly needed scholarships, the historically important *Intrepid* has been preserved, our nation's military bases are filled with Fisher Houses to aid military families in times of medical emergencies and thousands of Alzheimer's victims have been given hope for the future. Zachary Fisher made a difference—and because of this we should never forget him.

Elizabeth, on a personal note, we will always cherish our evening on the *Intrepid* in September, 1993. Ronnie said that evening that Zachary Fisher was an American hero and there's no question that is true. He loved our country and her people as much as anyone could. If we could be with you today as you honor Zach's life, I know that Ronnie would be proud, as the former Commander in Chief, to salute Zach one last time and tell him, ''Job well done, soldier.''

Please know that we are praying for you at this time.

Sincerely,

NANCY REAGAN.

MR. BILL WHITE, CHIEF OF STAFF TO ZACHARY FISHER

Good morning Mrs. Fisher, Mr. Larry Fisher, Mrs. Ginny Ross and the entire Fisher family. Distinguished guests, ladies and gentlemen, we at *Intrepid* wish to welcome all of you. We thank you for taking the time to be part of this event. Today, we gather to pay tribute to our beloved Chairman, Founder, and above all, our friend—Zachary Fisher.

You will shortly hear from members of Mr. Fisher's family and from those whose lives he has touched. His family felt it appropriate to hold this service here at the Intrepid Sea Air Space Museum. Fearless, brave, and courageous are words that describe this ship. They are also words that describe the man we honor. Zachary Fisher—you are *Intrepid.*

Mr. Fisher often quoted the philosopher Kahlil Gibran, who said, ''He who gives of

material things gives nothing . . . But he who gives of himself gives all.'' Zachary Fisher gave his all to everything he was involved with and to everyone he cared about.

I was reminded by Ken Tomlinson at one of those famous lunches at the Twenty-One Club eight years ago that Zachary said, ''See how easily this breaks?'' snapping a single wooden match. ''Now try to break these,'' he said handing me a grouping of seven matches. Held together, they could not be broken. ''It's the same with family,'' Zachary said. ''If the family sticks together, no one can break you . . . It is a lesson my father taught us many years ago.''

So it is fitting that last night at the chapel after talking with Sunnie, Anne and Tony, there are three important things with Zachary right now. There is a picture of him and Elizabeth, because no one was more important than Elizabeth. A picture of all of the Fisher brothers, because no one was more important than them. And a piece of the wooden flight deck of *Intrepid* from 1943 from which one of the people here carved out a mini *Intrepid* carrier. It's about five inches long. Two of the former crew members who served on this very ship during World War II and are here today signed the bottom of it. Zachary is holding that right now.

I hope that today when you leave this special place dedicated to the nation that Zachary loved so much, you carry with you the memory of this very special individual—someone who has truly touched all of our lives and reinforced for us the thought that God really does create extraordinary people. Zachary, it has truly been an honor to represent you the past eight years. You are my inspiration, my friend and my hero. I will never forget you, and I will always be grateful to you for allowing me to be part of your life.

At this time, I would like to introduce our Master of Ceremonies, a longtime friend of Zachary Fisher, and a man who truly needs no introduction, Mr. Walter Cronkite. As Tex McCrary says, ''Mr. Cronkite, the bridge is yours.''

MR. WALTER CRONKITE, MASTER OF CEREMONIES/SPECIAL CORRESPONDENT, CBS NEWS

Ladies and gentlemen, welcome to *Intrepid* today. We are glad that you could all join us for today's ceremony. It is most appropriate that we gather on board *Intrepid* today, because this ship meant so much to Zachary. When he undertook the mission to save this ship from the scrapyard, he launched himself on a course that would eventually make Elizabeth and him our country's most generous supporters of the men and women of the Armed Forces. He cared deeply for the young people who are willing to put their lives on the line every day to defend our nation and the principles we all hold so dear. It is heartwarming to see that we have been joined today by America's senior military leadership, along with hundreds of Zachary's other friends. Thank you for being with us.

THE HONORABLE HENRY J. HYDE, CHAIRMAN OF THE HOUSE JUDICIARY COMMITTEE

Distinguished friends, guests, the Fisher family and, especially, Elizabeth, I just have two simple ideas I would like to assert. If everyone for whom Zachary Fisher performed a loving service were to bring one blossom and put it on his casket, he would sleep under a wilderness of flowers.

In 1666, London was devastated by a terrible fire, almost wiped out, and out of the ashes a genius named Christopher Wren, another builder, arose and almost singlehandedly rebuilt London. His crowning achievement was the Cathedral of St. Paul. If you go in the back, beneath the floor, he is buried. And you kick the dust away—the Latin words ''Se requeris monumentum circumspace''—''If you would seek his monument, look around.'' That applies perfectly to Zachary. If you would seek his monument, look at the *Intrepid*, look at the Fisher Houses, look at the Fisher Center for Alzheimer's Research. Look at every serviceman and servicewoman all over the globe and you see his monument.

This is a time for sorrow, for lamentation, for grief, but it also is a time for thanksgiving. We should thank God that such a man lived and we knew him.

RABBI JUDITH LEWIS, TEMPLE ISRAEL

Zachary Fisher wore the name of a Biblical prophet of ancient Israel, Zachariah. Zachariah, the Biblical prophet, lived during the rebuilding of the Temple in Jerusalem. The Jews had been granted permission to return to their promised land to rebuild their sacred shrine in their capital city. Zachariah, the Prophet, spoke the language of builders. He described the technical aspects of constructing that major edifice.

At the same time, he had a universal Messianic vision of religion. ''These are the things that you must do,'' said Zachariah. ''Speak truthfully with your neighbor. Execute the judgment of truth and of peace within your gates. Let no one devise evil in your heart against your neighbor nor approve of false oaths.''

Then he prophesied the one God of Israel would have dominion over all the world. Zachariah was the author of a famous passage with which we close every worship service to this day. He said, ''On that day the Lord will be One and His name will be One.''

If we live the ideals of our religion, then all people will eventually recognize that we all share one creator. Zachary Fisher lived through the rebuilding of the modern State of Israel. His family has been among the most generous supporters of the homeland of the Jewish people. Yet Zachary was a man of the Diaspora. He was an American, a proud patriot. He believed in the ideals of this country, the ideals of equality, opportunity, freedom and justice.

He loved the military not because of its might and power but because of the values this country cherishes, because of the ideals of American democracy, ideals that are worth sacrificing our lives to protect. Zachary Fisher stood in awe of those who were willing to place their own lives on the line to defend others, to fight for what he believed was right. His admiration and reverence for heads of state, for politicians and officials, for military leaders and rulers of nations, for people with the power to change the world was palpable, genuine and sincere.

For Zachary Fisher was a man of faith, a true idealist who gloried in the fact that he could demonstrate his commitments in grand public gestures. But the motivation behind those gestures was a quiet, sincere, idealistic belief in the power of humanity to cure the evils of this world. In his memory may we commit our lives to that task.

God, you have been our refuge in every generation, before the mountains came into being, before you brought forth the earth and the world. From eternity to eternity, you are God. You return us to dust, decreeing, 'Return O mortal ones,' for in your sight a thousand years are as yesterday, when it has passed as a watch in the night. You engulf us in sleep. We are like grass that renews itself. At daybreak it flourishes anew; at dusk it withers and dries up.

The span of our life may be three score years and ten or, given strength, four score years or more, but the best of those years have trouble and sorrow. They pass by speedily and we are in darkness. Teach us, therefore, so to number our days that we may attain a heart of wisdom. Turn to us, O God; show mercy to your servants. Satisfy us at daybreak with your steadfast love that we may sing for joy all our days. Let your deeds be seen by your servants, your glory by their children. May your favor, oh God, be upon us. Establish also the work of our hands that it may long endure.

MR. MICHAEL STERN, CHIEF OPERATING OFFICER, FISHER CENTER FOR ALZHEIMER'S DISEASE RESEARCH FOUNDATION

Zachary often told me that the measure of a man's success was not the wealth he accumulated during his lifetime, but the good that he did that lived on after him. By that measure he was extraordinarily successful. Zachary did not limit himself to grand deeds, though there were many.

During the war in the Pacific, the *Intrepid* was hit by a Kamikaze plane. Burning fuel oil doused a crew in a gun tub. A handful of sailors on deck threw themselves into the inferno to help save their burning comrades. The heroic sailors were awarded the Navy Cross—all but one; he was black. He received an inferior award. For fifty years he sought to rectify the error. His story finally reached Zach Fisher. At that year's Fleet Week dinner, Ronald Reagan pinned the Navy Cross on his chest.

President Reagan concluded his speech that night by extolling Zachary Fisher and saying, ''As former Commander in Chief of our Armed Forces, I say, 'Well done, soldier!' '' There was a thunderous applause and hardly a dry eye.

I have been asked many times why Zach has concentrated on the military. The answer is simple. Zach tried to enlist but was turned down for physical disabilities. Since he couldn't serve himself, he spent a lifetime serving those who served for him—and for us.

There is now a bill before Congress to name Zachary Fisher an honorary veteran. This has only been bestowed once before in the history of our nation. The bill was presented by Congresswoman Carolyn Maloney with the backing of the powerful Chairman of the House Appropriations Committee, Bill Young. Both are seated amongst our mourners. This act of Congress would have made him justly proud, because it puts an official seal on what he already was—a member of the military family.

Zach has been my friend for almost half a century. We have worked together in the foundation for many years and I am proud to have stood tall in his shadow. I sought fitting words to say goodbye to my friend; I could not improve on the words of Ronald Reagan—''Well done, soldier!''

MR. ARNOLD FISHER, NEPHEW OF ZACHARY FISHER

I am privileged to say a few words about my Uncle Zach. Although much will be said about Zach, my father, larry, and their brother, Martin, and how they started as hard working bricklayers and contractors, and others will focus on the growth of Fisher Brothers into one of the premier real estate partnerships in the country, I feel that a more personal testimonial to Zach is to share with you some of my thoughts.

Our business is known for its rough and tough nature. Building on Manhattan Island is demanding, frustrating and difficult in the best of times. The men who build modern New York had to be equally tough or they would have failed. The Fisher brothers were, and are, no different. That make Zach Fisher's emergence as a man recognized by presidents, prime ministers, generals, admirals and the common, everyday soldier, sailor,

airmen, marine and coast guardsman as a man of uncommon compassion all the more unique.

While most men blessed with the good fortune of a Zach Fisher would have settled into a life of leisure and luxury during their later years, Uncle Zach found an entire new focus for his life—His military family and friends. While his contemporaries were golfing and cruising, Zach spent many of his weekends aboard his beloved *Intrepid*, hosting parties for the visiting men and women in uniform, chairing memorial services for those who has given their last full measure in our nation's service and in general, ensuring that our nation's armed forces would never be forgotten.

Whether it was the welcome home of the Vietnam veterans or the celebration of Fleet Week that he initiated, Zach loved the company of young men and women of the United States military. Zach had his close friends among generals and admirals but it was to the everday soldier, sailor, airmen, marine and coast guardsman that he devoted his full energy.

He built 26 Fisher Houses adjacent to military hospitals across the country for a pure and simple reason—Zach wanted the service families to have a clean, comfortable home in which to wait for the recovery of their loved ones. Whether in war or peace, if events claimed the life of one of more of his military family, Zach immediately established scholarships to ensure that the children of the military would not be forgotten.

In all ways and at all times, Zach was here for his military family. Even the accolade of ''America's foremost military philanthropist'' fails to capture the love and passion that motivated him. Others could do good work but Zach was taking care of his family. Zach's love and compassion were nowhere more evident than his complete devotion to this wife, Elizabeth. Wherever Zach went, always at his side was Elizabeth. And as Elizabeth's battle with her illness became more demanding, Zach intensified his partnership in the battle. He founded one of the foremost research efforts in the fight to find a cure for Alzheimer's. Until his last day, his love for Elizabeth and his complete devotion to her never waned; it grew. Zach's commitment to his wife is an example to all of us.

So what of my Uncle Zach? Chiseled out of the granite of the New York construction business, Zach was the beacon of kindness and gentleness that is so rare in America today. He touched millions through his generosity and compassion. He brought grace to our lives. He will be missed. I will miss him.

Zach, thank you for showing us the way, for we will follow.

MR. RICHARD FISHER, NEPHEW OF ZACHARY FISHER

To all of us gathered here, Zachary Fisher was a monument of a man. But rather than speak of the monument, I would like to take a moment to speak of the man himself. To quote someone wiser than I, ''This was a spacious man who carried a kind of innocence that had no tincture of naivete in it.'' There was nothing narrow or confined, or confining, about Zachary.

Horatio Alger could not have written a more dramatic, unbelievable story of a bricklayer who became an immensely successful businessman, who then effectively retired to start an entirely new career in the gracious and generous service of his country, for which he won the Medal of Freedom, our nation's highest civilian award. But in the spaciousness of his character we should also remember that he was for his brother, Larry, his best and dearest friend. For us, his nieces and nephews, he was our dearest, kindest, gentlest, beloved uncle.

What we need to understand about this man's character and vision was that while it played out on the immense stage of our country—whether through the Intrepid, The Fisher Houses and the Alzheimer's Foundation, to name just a few—it continued without abatement to play out within our family with equal energy and grace.

The public praise of this extraordinary human being you already know and will hear again. Know how well deserved it is. But that other dimension of this man—our brother, our husband, our uncle—is equally monumental, because when he moved onto that much bigger stage, he will still retained his delightful innocence, his vision and his pride in and for our family.

Zachary taught and gave us character. He brought us the spaciousness of his dignity, together with the pure innocence of his ideals and principles. For that we cannot thank him enough, nor honor him sufficiently. He shall be missed, most of all for the pure sweetness of his character.

MR. M. ANTHONY FISHER, NEPHEW OF ZACHARY FISHER

Today is, in many ways, a celebration of the extraordinary accomplishments of a great man, Zach Fisher. He was an exemplary philanthropist, patriot, businessman, and a true gentleman. He has been acknowledged as such many times over with the numerous honors and medals that have been awarded over the years. The most impressive, of course, is the Medal of Freedom, which the President gave him this past September.

There are a few awards that don't exist that I wish did. The first one would be the Golden Mensch Award. I am sure all of the members of my family who are sitting here today would agree that one of my Uncle Zach's greatest qualities was that he was always willing to lend a sympathetic ear. This was especially comforting to know on a day when you had been in to see my other beloved uncle, Larry, and you had suffered a well-deserved tongue lashing. It's true. Zach was always there to pick up the pieces and to put things in perspective.

Together, Larry and Zach were a formidable team. They took the concept of good cop/bad cop to new heights and, in doing so, taught us much, including the invaluable lesson of teamwork amongst family. This notion of family was so strongly ingrained in Zach that it was the foundation upon which his life's ideology was built. I will always remember the day, very early on in my career at Fisher Brothers, that Zach called me into his office. Similar to the experience that Bill White had, he said to me, ''Try and break this match''. I took it, and I did. Then he handed me a bundle and said, ''Now try and break this bundle''. When I couldn't, he said ''Now, that's family for you. If we stick together, we will stay strong.''

I believe that, throughout the years, I have learned much from Uncle Zach's example—even more than his words. It was never necessary to ask him for help, because he was always two steps ahead of you. For that lesson, I say, ''Thank you, Zach.''

So, today, as we review the life of a man who I truly loved, I would like to bestow upon him one last honor: it would be a medal for a life well lived.

HIS EMINENCE JOHN CARDINAL O'CONNOR, THE ARCHBISHOP OF NEW YORK

It must be providential that just about an hour ago I was privileged to receive in my residence Rabbi Ruden, Jim Ruden, together with Members of the Board of the American Jewish Committee. They had come to give me a check for $100,000 to be transmitted to the Catholic Relief Services to assist in the building of a Catholic school in Macedona for refugees from Kosovo.

I told them very explicitly when they gave me the check that I was coming here and that this was the kind of thing that Zach Fisher has been inspiring for years and years and years with absolutely no distinction of race, creed, color or any other differentiating characteristic.

When I think of him, I think of the words of Tennyson, ''Shall I ask the brave soldier who dies by my side in the cause of mankind if our creeds agree?''

I think, too, of a little story that old time newspaperman, George Sekowski, once wrote about a young sailor named Joe Callahan. Joe Callahan's brother, Jim, had been killed during one of the wars in the Pacific. When his ship was near that particular island, he asked the lieutenant if he could go ashore to visit the grave of his brother, who was buried there.

The lieutenant not only permitted it but went with him. He arrived in the cemetery, found the grave of his brother, Jim, Jim Callahan, Irish Catholic. Beside Jim Callahan's grave on one side was the grave of Luther Brown, Lutheran, and on the other side was the grave of Isaac Goldberg, Jew.

Young Joe Callahan said a prayer over each grave. Then he looked up at the lieutenant. He said, ''Gee, Lieutenant, my brother always did keep swell company.''

Anyone who was ever privileged to spend even a few moments in the presence of Zach Fisher knew that he was truly in swell company. Tony Fisher, you and your lovely wife, Anne—who were gracious enough to come to my Mass at St. Patrick's Cathedral yesterday, when I tried, to the best of my ability in accordance with my Catholic faith, to honor this truly noble Jew, Zachary Fisher, and to invite several thousand people to pray for him and for all of the family—I doubt that you would be offended if I offered you, for all of the Fisher family, perhaps, the one little gift that they don't have and would never expect to receive, a Cardinalatial yarmulke. May I leave this with you? Thank you.

THE HONORABLE RUDOLPH W. GIULIANI, THE MAYOR OF THE CITY OF NEW YORK

Thank you. Distinguished guests. Governor Pataki, all of the distinguished members of the military, elected officials, in particular, Larry Fisher and members of the Fisher family and the family of the *Intrepid*, today we finally get to show our gratitude to Zach. We finally get to turn in some small way the stream of generosity that has flowed only one way toward us to him, and to thank him and to let all of you in the Fisher family know how important he is to everyone in the City of New York and throughout the United States.

What is it that fueled Zach's extraordinary generosity, his extraordinary sense of obligation? I believe it was that Zachary Fisher understood in a very deep and profound sense that freedom is retained only through dedication, commitment and sacrifice, that the wonderful blessings that we have as Americans that make us the luckiest people on the face of the earth do not happen by accident. They happen because there are men and women who are willing to lay down their lives to create it, to protect it and to expand it. At the very core of his being, he understood our obligation to them and then expressed it in a way that most of us are incapable of doing because of the great love and generosity of spirit that he had.

One week ago today was Memorial Day here in New York City. We celebrated it as we do now every year because of Zachary and

Elizabeth Fisher, on the *Intrepid*. Rather than being turned into a scrap heap, this ship stands as a proud tribute to the American military and as a very, very strong reminder of the price that we're going to be called on to pay, both now and in the future.

A personal note of debt of gratitude to Zachary and Elizabeth Fisher: Donna's father and my father-in-law, Lt. Commander Bob Kofnovec, served on this ship in the latter part of World War II. To see him return to this ship with his grandson and his granddaughter and explain to them about what it was like to return from a mission, what it was like to land with the slightly warped deck, to see him take them around and show them where he served in the noble cause of defending freedom and to pass on to them that feeling and that sense is a debt that I owe personally to Zachary and Elizabeth Fisher.

But I am not alone in owing that debt; thousands and thousands and thousands of other Americans owe that debt to him also. So for my wife, and for me, I say thank you, very, very much.

It's no surprise that Zach Fisher built this museum. He began building when he was very, very young. At 16 years old he began in the construction business. He and his brothers and family built much of what you see in the most magnificent skyline in the world. It is sometimes described as the eighth wonder of the world, except a wonder that is created by human hands. Zach's hands were one of the most significant in creating it.

Many, many people would have been more than justified in being satisfied with that contribution. Instead, after he made that contribution, enough to be placed in a very special place of honor among his fellow New Yorkers, Zach decided to give back even more to the men and women of our military to help to preserve and then to create this museum, to make certain that the men and women of our military understand that at times of greatest loss there are citizens that care about them.

Beyond what he's done for the military, I should also tell you that he includes in that family the men and women of our police department and the men and women of our fire department. When they have a loss, he is there to financially support them and to morally support them.

I believe it is not coincidental in some plan that exists. When Zach died the other day, within a few hours we lost Capt. Vincent Fowler, who died in the line of duty in Queens fighting a fire to try to protect the lives of others. I bet somehow that Zach and Fire Captain Vincent Fowler—Capt. Fowler is to be buried tomorrow—are standing in heaven and they're looking down and they're saying thank you to each other, Zach saying thank you to Capt. Fowler for putting his life at risk to save others, and Capt. Fowler saying thank you for taking care of his wife and his three children who are left behind.

Zach Fisher wasn't an accident either. He is a product of this beautiful, strong and loving family. His generosity of spirit was not his alone, it is all of yours. As the Mayor of New York City, I thank you for what you've given us, the City of New York. As an American, I thank you for what you have given the men and women who pay the extra price. As a father, I particularly say thank you for what you've done for my children and my family. Thank you very much.

THE HONORABLE PETER F. VALLONE, THE SPEAKER OF THE NEW YORK CITY COUNCIL

I first had the great privilege of meeting Zachary Fisher more than a decade ago when he came to City hall looking for what I thought was a financial commitment. Can you imagine, Zachary Fisher looking for financial commitment?

I soon found out that what Zachary was looking for was for the great City of New York to become part of the great work of the Intrepid. Previous speakers referred to him as Mr. Intrepid. That has come to mean to me some very important attributes. He was a kind man. He was a truthful man. He was a just man and he was a peaceful man. He lived what the Prophet Isaiah said three thousands years ago, that some day kindness and truth shall meet, justice and peace shall kiss, peace shall spring out of the earth and justice shall look down from heaven.

This Intrepid is not a monument to war; this Intrepid is a monument to peace and to Zachary Fisher. Just as surely, some day, justice shall look down from heaven, you know and I know that Zachary Fisher is looking down upon all of us and saying, ''Keep the faith; keep the peace.''

THE HONORABLE ALAN G. HEVESI, THE COMPTROLLER OF THE CITY OF NEW YORK

Thank you very much, Walter Cronkite, ladies and gentlemen. This is a celebration of a life and it is a period of incredible mourning for the passing of one of America's greatest citizens. I thank you all for being here; it is so important that you are here.

Arnold Fisher developed the theme: We are here in profound sadness, for me as well as many of you, a touch of anger that Zach is taken from us. Because as much as he gave, there was so much more to give.

But here was the quintessential New Yorker, he and his family building a business in the toughest competitive environment possible. They were rough, they were tough, they were uncompromising. They built a great business empire. They refused to suffer fools, Zach particularly, and they competed successfully.

And at the same time, Zach Fisher was one the most caring, decent, compassionate, kindly persons imaginable and one of the sweetest people you'll ever want to meet. He never said no. All the charitable work, all the philanthropy, all the caring for the servicemen who stand between America and her people and values on the one side and evil on the other side, Zach was there for them.

For the families of servicemen and women who died, Zach was there for them. The scholarships, the *Intrepid*, the Alzheimer's program, the Fisher houses, and so many other instances that we don't know about because they haven't been celebrated.

My wife, Carol, who loved Zachary dearly and who would be here now but she is recovering from surgery, was an administrator at Creedmor Psychiatric Hospital and at dinner one night was talking with Zachary about taking care of some of the most desperate people in the world, people who have no control over their own mental faculties. Zachary asked Carol what do they need more than anything else, in addition to their medical care, and she said, ''Some respite from the campus of a psychiatric hospital, some ability to get to a ball game or to the theater, to get to a park.'' Three weeks later, six brand new vans to transport patients all over this magnificent city were provided by Zachary Fisher.

Zachary Fisher's life, however, is not just summed up by his philanthropy and his toughness and his caring but also an unspoken value that needs to be expressed: the profound value of love. As macho and as tough as this man was, and his family, what drove him was a sense of love, particularly for his family, especially for his beautiful wife, Elizabeth—expressed no more dramatically than in the last ten years during her illness—but for the entire family.

In a sense, I am representing another portion of that family, the friends of Zach Fisher, whom he brought into his circle as members of the family with the kind of caring and love and affection that is unprecedented. It is reflected in his decades long friendship for Michael Stern. It is reflected in his incredible caring and loving for Billy White—and one day, Billy, I will tell you about the number of times he spoke behind your back about who you were and who you were going to be—and about all the rest of us who he brought into the circle.

So we have lost a very extraordinary man, tough, rough, relentless, kind, compassionate, loyal, decent, loving, the sweetest man of all, a great friend, a great mentor, the greatest patriot in America, our dear friend, Zach Fisher. God has blessed Zach Fisher; God will bless Zach Fisher as he has blessd us by allowing us to know and to be with Zachary Fisher. thank you all for being here.

A few years ago, a news crew followed Zach as he traveled the country on his mission of good will. They produced a snapshot in the life of a man who they named, and was aptly named, a patriot in the shadows. At this time, I ask you to join me sharing a memory of America's greatest patriot and our dear friend, Zach Fisher. Thank you.

THE HONORABLE CHARLES SCHUMER, UNITED STATES SENATOR

Well, thank you very much, Walter. And like so many who have preceded me here, it is truly an honor to stand here and remember Zachary Fisher.

When the Founding Fathers had finished writing the Constitution, one of them was approached by a citizen who said, ''What have you done?'' And that Founding Father responded and said, ''We have given you a democracy if you can keep it.''

What was meant was that, in this brave new experiment that had never been tried before, were the people of America up to it? Would they be able to keep this democracy? The Founding Fathers wondered about that and they wondered about whether private citizens throughout the country could live up to the ideal that they had created.

Well, Zach Fisher was the apotheosis of the idea that the Founding Fathers wanted for the American citizen. Of course, as a family man, his dedication to his wife was something that they would have very much treasured. As a businessman, somebody who did good for himself and his family but also did good for a whole city by creating that great skyline and the office space that now employs and houses thousands, was also something that they envisioned.

But most of all, it was his volunteerism, his ability to step forward and go that extra mile that made him the citizen they very much wanted to be an American. It would have been easy for Zach, having been so successful in business, having had a loving and large family around him, to just sit back and relax, but he couldn't and wouldn't. His efforts on behalf of so many different charities were right there.

But most of all, it was his volunteerism on behalf of the military—what a combination—that distinguished him beyond any other American citizen that we have known. This museum that we stand on, again, signifies just that. It is both a monument to what happened in the past and to the lives that were risked over and over again.

But Zack had a special genius and he wanted it to be a vision for the future, so that this museum—which, the New York Times wrote, ''Zachery Fisher willed into existence''—looks to the children. Every week there are tens of thousands of elementary

and high school students who come here who may not have learned otherwise what had happened. There is vocational training. There are summer programs. He is teaching the young people; he is teaching them at this moment, even though he is no longer with us and looking down upon us, of how important it is to have a close link between the citizenry and the military. Teaching the children as we now watch, as we have our soldiers in harm's way overseas, how important it was and is and will be that sacrifices be made.

So, in short, if the George Washingtons and the Thomas Jeffersons and the James Madisons were looking down here on this room and, looking down on Zach Fisher's life, they would smile. He was just the American they wanted all of us to be.

THE HONORABLE GEORGE PATAKI, THE GOVERNOR OF THE STATE OF NEW YORK

When I was asked if I could be here this morning, my response was immediate: How could I not be here this morning? As all of us know, Zachary Fisher was always there. He was there for me and my family. He was there for New York and he's always been there for America.

On this solemn day, we pay tribute to one of the greatest Americans of our time, an American whose deeds outran his words, an American whose love of country knew no bounds. Zachary Fisher was a dear friend to all of us and on this day, our hearts—and, indeed, the hearts of men and women across America—are filled with sadness. But none of us can possibly feel the sense of loss that Elizabeth, Ginny and Harry feel today. To you and to Arnold and Richard, Anthony, Ken and the entire Fisher family, God bless you. Our thoughts and our prayers are with you. To Elizabeth, I know that little can be said to ease your pain but I hope your heart is warmed by the fond recollection of Tex McCrary, who described your years with Zachary with these words: ''The Fisher story is a love story—love of country, love of the armed forces and love of each other.''

Zachary's actions say more about him than our words ever can, but it is appropriate that we join here today on this symbol of America's strength, for it was this symbol of strength and pride, pride in America's armed services, that Zachary devoted his life to renewing. The *Intrepid* is one of his many legacies, one of his many gifts to the people of this nation for generations to come.

I think Zachary would be proud to see us gathered here today on this great monument, for our presence here embodies the fulfillment of his vision which was to create a deep spirit of reverence and appreciation for our military institutions and, more importantly, for the men and women who make them great.

The philanthropic contributions that he, Larry and Elizabeth and the whole family bestowed upon this nation amount to tens of millions of dollars, but the depth of their compassion and generosity is best measured not by dollars but by your boundless love of America.

My wife, Libby, felt that love when she was with Zach for the opening of Fisher House in Albany, where military families will get the services and care they deserve. I felt that love of America right here on the *Intrepid* so many times, most memorably when Zachary and I presented Yitzhak Rabin with the Intrepid Freedom Award. Ten days later, Yitzhak Rabin was taken from us. Last year Zachary received the Medal of Freedom. It is a fitting tribute to one of our great patriots.

Zachary Fisher had a dream for America and for us. He fulfilled that dream. He will be sorely missed but his dream will live on in our memories and in his legacies and in the heart of a grateful nation that mourns his passing. God bless you.

MASTER SERGEANT AND MRS. GLYNN DAVIS, USAF, FISHER HOUSE RESIDENTS AND VOLUNTEERS

Tena and I are honored today as just one of the more than 35,000 military families helped by Fisher House. I have been a Fisher House volunteer at Andrews Air Force Base for the past three years, and never dreamed that I would have to call on the services of the program I so deeply love. My story begins while on leave in Georgia in April.

My wife began having back pains and had to be rushed to the military hospital at Fort Gordon. Because of our unique situation, we were referred to the Medical College of Georgia in downtown Augusta. The doctor examining my wife turned to me and said, ''Your wife is eight centimeters dilated and you are going to have a baby.'' My heart started pounding; my hands began to shake. I could not hold back the tears. How could this be? My wife was barely six months into her pregnancy. The stress I was going through was almost too much to bear.

On the 21st of April, my wife gave birth to a 2-pound, 6-ounce, baby boy, who we named Noah. After spending the next two nights in a chair beside my wife, the hospital social worker asked about our plans after my wife's discharge. So far away from home, in a civilian hospital . . . Where would we stay? What would we do? Until this point, my thoughts were only on my son's health.

The social worker suggested the Fisher House at Fort Gordon. After calling and explaining my situation to Mr. Cruz, the Fisher House manager, he said, ''You are welcome here at the Fisher House. Our doors are always open for you.''

After spending each day visiting our son, here was a place where I knew my wife and I could rest. There was a phone at our bedside so we could call the hospital to check on our son's condition before we went to bed and first thing every morning. There was an answering machine and a computer with e-mail to receive messages of support from family, friends, and co-workers. There was a washer and dryer with soap that was donated, a kitchen to prepare our meals, and often food donated by caring people. This was just what the doctor ordered and relieved a major portion of the stress my wife and I were experiencing, ''a true home away from home.'' All of our needs were graciously met, and that allowed us to focus on Noah.

My story ends on a happy note. Our son was later medivacked to the National Naval Medical Center in Bethesda. He now weighs over three and a half pounds, is doing well, and should be home very soon. Every day we thank God for my son, and for sending this world people like Zachary and Elizabeth Fisher.

We will truly miss Mr. Fisher. I know his spirit and generosity will continue to touch and bless the lives of military families for generations to come, and he will continue to live in our hearts. May God bless us all. Thank you.

THE HONORABLE RICHARD DANZIG, THE SECRETARY OF THE DEPARTMENT OF THE NAVY

I speak to you this morning on behalf of the President of the United States and Mrs. Clinton, the Secretary of Defense and Mrs. Cohen, and also, beyond that, on behalf of sailors and marines everywhere and, indeed, all members of all the services of the United States military who Zach loved so much.

They loved and admired him so much. You see this if you look closely. Beyond the bright, brave, red coats of the Drum and Bugle Corps, you will see some red eyes. There is real feeling in the military for Zach Fisher.

When I left Andrews Air Force Base this morning, I told the captain who was seeing me off where I was going. He said that he had been in a squadron in which two members had died in the line of duty. The next day, he said—the next day—the Fisher Foundation was there.

It was not so much, he said, the money; it was the caring—not so much the money, the caring. I think Bill White hit exactly the right note at the opening of this ceremony when he quoted Kahlil Gibran and said what really made Zach so special was not just his deeds, but the way in which he cared. He invested; he invested himself.

I think there is an image of giving that speaks of it in a spiritual and almost saintly way, that can make of it something ascetic, something self-denying and self-sacrificing. We tithe ourselves to give to others.

I really don't think that was Zach. Zach gave in a different kind of way. He gave in a way that I think of as loving. It wasn't at all self-abnegating, self-sacrificing. You look at that videotape—Zach wasn't an anonymous donor. He was right in the middle of everything, and we loved him for that.

That kind of giving translated into Zach putting his imprint on all of our lives and everything he did. He knew so many of us. He knew the managers of all those 28 Fisher Houses on a first name basis. He knew so many of the people in this room. He knew so many soldiers and sailors, airmen and marines. That kind of contact made the deeds not only so good but brought with them a kind of loving that I think was infectious, that caused everyone who was touched by it to start to do more themselves.

An account that I much liked was of a recipient of one of the bonds that Zach gave, one of those 113 children in the wake of the Beirut bombing. It came time to go to college at a university in North Carolina and he presented this $10,000 bond to pay for his education. The person in charge of finances and scholarships was confused by it and asked where did it come from and how it fit into the financial aid picture and was referred back to the Fisher Foundation.

He spoke with Zach and then decided that, all things considered, that this student, in light of the example that Zach had set, should get financial aid and keep the bond. He told the student this. The student came back the next day and said, ''Can I really do anything I want with this?'' The finance director said, ''Yes, you can,'' and feared that it was about to be spent on a car or some such.

The student said, ''I want to give the money to my sister so she can get an education also.'' That is Zach and what he did and the influence he had on all of us. I think it ran further. I think it set for all of us an example of how to give, an example that—precisely because it isn't self-deprecating and self-effacing but instead was so warm and human—created for all of us an example that we could aspire to.

For Zach, giving wasn't some act that diminished you; giving was an act that increased you. It wasn't self-abnegating, it was self-fulfilling. I think for Zach it was like his relationships with his family. As he loved his brothers and his nephews, as he loved Elizabeth, that became a fulfillment for him. And he found in these other activities other forms of fulfillment, and we all saw it and wanted to become a part of it. In our relationship with Zach, we did become a part of it.

There is another realm of life which I think adopts this kind of approach and, in

my mind, it is the military. We can talk about the military as a realm of sacrifice, as an arena in which people do heroic things at real cost to themselves. That is a correct picture, but there is another part to the picture and that is how rewarding it is, how richly fulfilling, how the sense of the worth of what you're doing, the sense of the mission, the sense of the intimacy and camaraderie of other people, builds a connection that, in the end, produces a life that is really worth living.

Many observations have been made about why Zach connected so meaningful with the military. I think Michael earlier correctly identified Zach's feelings of patriotism and his sense of how he, too, would have liked to have served in the military but for the bricklaying injury that he'd had as a young man. I think we understand that Elizabeth's performance in the USO and her coming back brought home to Zach a sense of how much the military did and how much civilians could do by working with the military.

But I think, above all, the relationship between Zach and the military was a natural because they are kindred souls, because there is a sense in both Zach and in our uniformed services of what it is to give, to give of yourself, that there are times and circumstances where sacrifices are made that ordinary people would regard as a cost.

But beyond that—beyond that is a sense of how richly we can connect with one another, what it means to relate to one another as though we were family. Zach and the military were a love affair waiting to happen and it was only appropriate and natural that the military took Zach to its heart as he took them to his and that this love affair blossomed. At times when the military was less than fully appreciated by America—and at times, as well, when it was fully appreciated—Zach was there as a member of the family, as somebody who understood that kind of transcendent love, that deeper meaning of doing a higher thing, of having a sense of the most intimate kind of camaraderie.

So I feel now a great sense of loss in Zach's departure. I also feel a sense that he showed us the way. He showed us what it is not merely to give of your resources, but give of yourself and, in the end, how deeply, deeply rewarding that can be. He has drawn all of us into that and for that, Zach, I thank you and God bless you.

GENERAL HENRY SHELTON, USA, THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Today, we gather to celebrate the life of an incomparable man . . . a loving husband . . . a wonderful friend . . . and a great American.

Today, we celebrate the life of an admired man . . . a man who counted among his countless friends the men and women who wear the uniforms of our nation and their families.

Today, we celebrate the life of a gallant man . . . a man who considered his greatest blessing and crowning glory to be the love of the woman who was his wife, his partner, and his best friend for over half a century—Elizabeth.

Today, we honor a true giant among men.

Will Rogers once said, ''We can't all be heroes. Some of us have to stand by on the curb and clap as they go by.''

Today, we all have to stand on the curb and wave farewell . . . as a genuine American hero goes by.

Zach liked to say that he was born with naval aviation—in 1910. At that time, America was still a young power on the world stage. By the time he died, the automobile had replaced the horse and buggy, the aircraft carrier had replaced the battleship, supersonic jets had replaced biplanes, men had walked on the moon, and America stood tall as the world's predominant global power.

Some realities throughout his long life, however, never changed: the need for a strong defense, the need for compassion, and the need for hope.

Zach saw all of this and more, and so he threw his time, energy, and resources behind projects designed to improve: the lives of people who serve their nations and communities; the lives of people who give of themselves for the betterment of others; and the lives of people, suffering from incurable afflictions of the body and spirit.

Zach was, of course, a builder of rare accomplishment. His legacy, however, lies not in the buildings he built, but rather in the spirit of America he upheld.

I remember when I first heard about Zach Fisher. What struck me most was his love of boats and the sea. Now, a lot of us like boats . . . some folks like bass boats, some larger fishing boats, some yachts.

Not Zach! He went out and bought an aircraft carrier! And what a carrier he bought! the USS *Intrepid* . . . the ''Fighting I'' of Leyte Gulf, a ship synonymous with greatness, not unlike its benefactor—the man we honor today.

And this, the Intrepid Freedom Foundation, is the product of his vision. Zach Fisher saw beyond the rusting hulk of a ship that would soon become razor blades. Zach saw a living monument to freedom, to sacrifice, and to courage.

The ghosts of *Intrepid*—the fighting spirit of the men who served on this glorious ship—move about us today, reminding us that courage and commitment transcend generations.

The ghosts of *Intrepid*, today stand ready to claim their greatest captain.

When I last saw Zach, in February, he was struggling physically. But, typical of Zach, he brushed aside my questions about his health and he grilled me about my health! He was concerned about how I was holding up in Washington.

But above all else, he was most concerned about the troops and what I was doing to take care of them. And when Zach pointed the laser beam of his attention at you, you stood a little taller, and you made sure your facts were correct.

So, I told him the troops were doing well! This was no exaggeration, thanks in no small measure to the incredible generosity of the Fisher House Foundation, the Fisher Armed Services Foundation, and many other manifestations of Zach Fisher's love and concern.

The Fisher name is a watchword for caring, a symbol of patriotism, a true lamplight for thousands of young men and women who guard freedom's frontiers around the world.

Zachary Fisher spent a good portion of his life making certain that those who serve the nation in the dark and dangerous places around the globe were appreciated, loved, taken care of, and treated in a manner befitting their service and dedication to America.

Those who wear the uniforms of America's Armed Forces will forever be indebted to him.

We cannot forget this patriotic American—full of love for his country and full of concern for those who defend her.

We cannot forget this devoted husband—full of love for Elizabeth, the light of his long life.

We cannot forget this wonderful man, so full of greatness and humility, sought not glory for himself, but rather glory for America's fighting men and women.

And, as long as men and women go down to the sea in ships like the *Intrepid*, we shall not forget Zachary Fisher.

Samuel Johnson said, ''It matters not how a man dies, but how he lives.''

Zach Fisher lived life to the fullest.

And we are a better country, a richer people, and a stronger military for his life.

Like all of you, I am proud to have called Zachary Fisher my friend, and I will miss him greatly.

GENERAL COLIN L. POWELL, USA (RET.), CHAIRMAN, AMERICA'S PROMISE, FORMER CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Elizabeth, members of the family, friends, there is sadness here and there is sorrow here today but there is also happiness and great joy as we celebrate Zach's life and as we reflect on the changing of the seasons.

A reading from Ecclesiastes:

''There is an appointed time for everything and a time for every affair under the heavens, a time to be born and a time to die, a time to plant and a time to uproot the plant, a time to kill and a time to heal, a time to tear down and a time to build, a time to weep and a time to laugh, a time to mourn and a time to dance, a time to scatter stones and a time to gather them, a time to embrace and a time to be far from embraces, a time to seek and a time to lose, a time to keep and a time to cast away, a time to mend and a time to sow, a time to be silent and a time to speak, a time to love and a time to hate, and a time of war and, finally, a time of peace.''

The word of God, a tribute to our dear friend, Zachary; who meant so very, very much to us. Now may flights of angels take him to his rest.

Mr. STUMP. Mr. Speaker, I yield myself the balance of my time to just thank all of those that took the time to pay tribute to this great American, one of the best friends probably that the military has ever had.

I also want to thank the gentleman from Illinois (Mr. EVANS) for his cooperation in bringing this bill to the floor.

Mr. REYES. Mr. Speaker, I rise in support of H.J. Res. 46 which honors Zachary Fisher as an honorary veteran. His lifetime support of our military and veterans clearly justifies naming him as an honorary veteran.

When the United States entered World War II in 1941, Mr. Fisher was told he could not serve in the Armed Forces due to a serious knee injury sustained in a construction accident. Determined to do his part, Mr. Fisher used his expertise in construction to help the U.S. Army Corps of Engineers build coastal fortifications. His dedication to the Armed Services continued after the war. Over many decades, he lent his full support to the U.S. military and their families. Mr. Fisher established the Zachary and Elizabeth M. Fisher Armed Services Foundation to serve as a support agency for both military personnel and their families affected by service-related accidents. To date, hundreds of families from all branches of the armed services have benefited from this foundation's support. In addition, the Fisher Armed Services Foundation provides educational scholarship funds to Armed Services personnel and their families. Since 1987, more than 700 students have received scholarships of between $500 and $2,500, allowing them to pursue education opportunities which otherwise would not have been possible.

Moreover, in 1990, Mr. Fisher established the Fisher House Program. Under this program he dedicated more than $15 million for

the construction of temporary homes for the families of military personnel receiving care at major military treatment facilities and VA Medical Centers. The houses provide support for families as they serve as a ''home away from home.'' One of these houses is located in my district at Fort Bliss. The presence of a Fisher House in El Paso, and throughout military bases around the country, help ease the minds of America's finest and their families during times of illness.

Mr. Fisher, as exemplified by these philanthropic efforts on behalf of our Nation's veteran's and military, established himself as one of our most dedicated patriots. Through these charitable acts, and numerous others in various civic and community efforts, he set a tremendous example for all Americans to follow. For these reasons, I urge my colleagues to honor Zachary Fisher by unanimously supporting H.J. Res. 46.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Arizona (Mr. STUMP) that the House suspend the rules and pass the joint resolution, H.J. Res. 46.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS RELATING TO ALLEGATIONS OF ESPIONAGE AND ILLEGAL CAMPAIGN FINANCING THAT HAVE BROUGHT INTO QUESTION LOYALTY AND PROBITY OF AMERICANS OF ASIAN ANCESTRY

Mr. HYDE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the concurrent resolution (H. Con. Res. 124) expressing the sense of the Congress relating to recent allegations of espionage and illegal campaign financing that have brought into question the loyalty and probity of Americans of Asian ancestry, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

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

Mr. WU. Mr. Speaker, reserving the right to object, and I shall not object, I take this time for the purpose of asking the gentleman to explain the purpose of his request.

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

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

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding.

Today, the House considers H. Con. Res. 124, which recognizes the contributions of Asian Americans to American culture and society, and condemns all forms of discrimination and bias against Asian Americans. This resolution has the bipartisan support of 75 cosponsors and was introduced by the gentleman from Oregon (Mr. WU) and the gentleman from California (Mr. CAMPBELL) on May 27, 1999.

It expresses the sense of Congress that recent allegations of espionage and illegal campaign financing against certain Asian Americans have brought into question the loyalty and probity of all Americans of Asian ancestry. In an effort to counter this stereotypical view as one of ignorance based on generalizations about people of different ethnic backgrounds, it is the sense of Congress that no American should generalize or stereotype the action of an individual to be representative of an entire group.

The resolution calls upon the Attorney General, the Secretary of Energy, and the Commissioner of the Equal Employment Opportunity Commission to vigorously investigate and enforce all allegations of discrimination in public and private workplaces.

GENERAL LEAVE

Mr. WU. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject matter of the concurrent resolution.

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

There was no objection.

Mr. WU. Mr. Speaker, further reserving the right to object, I would just like to say that I was not born in America. At the age of 6½ years, I came to America with my family because my parents wanted to start a new life and my father wanted to pursue a graduate education in engineering. I was lucky. My parents pushed me hard to work in school, and I did. I got a good education, considered becoming a physician or a scientist, but went on to law school and began my own law practice in Portland, Oregon.

At our law firm, Cohen & Wu, and we always like to say ''Only in America, Cohen & Wu,'' we focus primarily on high technology and international trade. I traveled overseas frequently for business, and I also spent 6 years negotiating a sister city relationship between my hometown of Portland, Oregon, and my ancestral home of Suzhou, China. Closer to home, I practiced intellectual property law. I worked closely with startup technology firms and worked hands-on with some of the most cutting-edge technologies in the world.

Mr. Speaker, America's greatest strength is that it is an open society, where each citizen has the freedom to pursue his or her dream. Every citizen, every American. Some become doctors or businessmen, others become teachers or scientists, some may also become Members of Congress. I am here in this chamber today because those who came before us fought hard for that freedom and for our open society, and I want to do everything in my power to preserve that freedom and open society for those who come after us.

The events surrounding the Los Alamos controversy and the campaign finance scandals have cast two dark shadows. One is a shadow on our national security; the other is a shadow on the American dream, on our open society of equal opportunity. Had the current political climate existed when I was traveling internationally, when I was quoting high-tech startups in Oregon, I would not have had my successes in the private sector, nor would I be in Congress today.

The danger we face today is twofold: first, of course, is national security, and we must work hard to ensure that security. Second is the real or imagined limits we place on the minds and the hopes of our own people. In preserving our national security, we must be careful that we do not act like the very regimes we fear will obtain our technologies.

Asian Americans have made profound contributions to American life. From the arts to education, from railroad building to serving in the armed forces, Asian Americans have played an integral role in building our great Nation and in preserving its security through diligent hard work. Recent allegations of espionage and illegal fund-raising, however, have caused some Americans to call into doubt the loyalty and probity of Asian Americans. Our Nation was founded upon self-evident ideals, such as due process, the right to life, liberty, and the pursuit of happiness. We cannot afford to sacrifice these American values.

This resolution highlights the strength and diversity of America and underscores the achievements and contributions of Asian Americans of the United States. Mr. Speaker, as the very embodiment of America's free and open society, this Congress must take a leading role in creating room for diversity and prevent future discriminatory acts from taking place. I strongly urge my colleagues to help preserve America's open society and support this piece of legislation.

Finally, Mr. Speaker, I would like to commend the gentleman from California (Mr. CAMPBELL) for joining me in introducing H. Con. Res. 124, and the gentleman from Illinois (Mr. HYDE), the chairman of the committee, as well as the gentleman from Michigan (Mr. CONYERS), the ranking member of the committee, for all of their help in the Committee on the Judiciary.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, when this issue first was presented to the Committee on the Judiciary, I could not help but think of my boyhood days when a close friend, who is still a close friend, Jimmy Wong, and I followed parallel lives; he

in a Chinese-American environment rich with the heritage of his forefathers, and mine in the Greek tradition. Both of us had families who operated restaurants. One can imagine the bill of fare in the restaurant of Jimmy Wong's parents and that in my parents' restaurant.

Their son, Jimmy Wong and myself, became school mates. We sold newspapers together in downtown Harrisburg, store to store and platform to platform, and grew together in becoming aficionados of the then current movies and the movie stars and all the current events that were occurring. World War II was running rampant at that time. We shared stories, anecdotes, after-school hours, all of the richness of growing up together in a diverse America.

Therefore, I always grew up with the notion that Chinese-Americans, the thousands upon thousands in our country, have always contributed to the culture and to the traditions and to the wealth of American traditions in their own right as we were developing as a Nation. So it came as a shock to me that we even need this resolution, notwithstanding some of the rigors of investigations and other kinds of alleged wrongdoing. That did not visit upon the Chinese-Americans or Asian-Americans as a whole. It only talked to individuals who may have transgressed or alleged to have transgressed, not the body of Chinese-Americans who have been our neighbors, our friends, our boyhood chums.

I spoke recently with Jimmy Wong, who is a retired attorney in our area. We took an hour on the telephone simply laughing about old times; and I told him, because then I did not know how rapidly this resolution would come to the floor, that I would invite him to the chamber to be here when this resolution was to be debated. Time was not accorded me. I hope he is watching this on C–SPAN. But the point is, for the thousands and thousands of Jimmy Wongs across the Nation, our country loves them, our country knows that they love our country, and I support the resolution.

Mr. WU. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California (Mr. CAMPBELL), my cosponsor of this resolution, and I also wish to thank the gentleman from Pennsylvania (Mr. GEKAS) for his remarks.

Mr. CAMPBELL. Mr. Speaker, I thank the distinguished gentleman from Oregon for yielding to me. I am privileged to stand on the floor with him. I am privileged to stand for the principle we share, that Americans should be judged on their own merits.

The gentleman from Oregon (Mr. WU) and I worked together on this, Mr. Speaker, in order to make sure that in response to recent allegations of espionage, that we refrain from the easy temptation to make a generalization based upon race.

This was particularly important because I had observed among many friends of mine in California a decision on their part to withdraw from the political process, to withdraw from what might attract attention, simply because they were, in this case, Chinese-American, and thought that perhaps it would be wiser to keep a lower profile. What a horrible, sad thing. They would be censoring themselves, Americans censoring themselves because of their concern about a profile at a time of controversy.

What this resolution does, in which I am so proud to join with my colleague from Oregon, is to say, no, that is simply the wrong message to be taken. Every American of Asian ancestry, every American of Chinese ancestry in particular, ought rather to renew his or her involvement in our political affairs to demonstrate that there will be no success for those who would intimidate; and that it is a disservice to our country in a fundamental way to discriminate, as it is a disservice to our country to be engaged in any transfer of nationally secure information.

Lastly, Mr. Speaker, it has also come to my attention from colleagues at Stanford University, a university affection for which the author of this resolution and I have in common, that a number of Americans of Asian ancestry are resisting invitations to go overseas, or might be hesitant to do so, lest they be cast under a cloud of suspicion.

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This was, once again, a form of self-censorship, though in this case not of a political nature but, rather, of a scientific nature. The importance of scientific exchanges for the fruitful development of science indicates this reaction is a regrettable sad one and one that we wish to deter.

So, Mr. Speaker, I am proud to stand with my good friend and colleague, the courageous gentleman from Oregon (Mr. WU) in offering this resolution. I thank the honorable gentleman from Illinois (Mr. HYDE), the chairman of our committee, but for whom we would not be on the floor here today, and I note his steadfast opposition to all forms of discrimination, which is manifest in his support of this resolution as well.

Mr. WU. Mr. Speaker, I thank the gentleman from California (Mr. CAMPBELL) both for his remarks today and his hard work on this resolution.

Mr. Speaker, continuing my reservation of objection, I yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, as a member of the House Committee on the Judiciary, I would like to applaud both the gentleman from Oregon (Mr. WU) and the gentleman from California (Mr. CAMPBELL) for their leadership on H. Con. Res. 124 and to the gentleman from Illinois (Mr. HYDE) and to the gentleman from Michigan (Mr. CONYERS).

I was compelled to lend my voice to this for the consternation that I have personally experienced by some of the intimidating tactics that may have resulted from investigations that were occurring in the United States Congress, because this Nation is a blessed nation because of the richness of diversity, but particularly because of the enormous mosaicness of the Asian community from the far reaches of California and Oregon to the far reaches of New York, but particularly in my great State of Texas.

We are enriched by the participation of so many Asians who have contributed to this Nation both in terms of their bravery and serving in our various wars, the Korean War, World War II, as well as the various other altercations that we have had on behalf of freedom, and most recently the Vietnam War and, of course, our conflicts in Bosnia and the Kosovo conflict.

I want to thank the gentlemen for this resolution, for I would want no one to feel that they are any less an American. Anytime Americans are stereotyped, it is the lowest rung of our ladder. But anytime we work together as one human race, we are climbing to the highest rung of the ladder.

I salute the many Asians that I have had the great pleasure of working with in the City of Houston, in the State of Texas; and I would offer to say to them that they stand equal under the sun to all of us and we are better off because of what they have given to this Nation.

This resolution is an appropriate one because it makes a statement that there will be no intimidation, no stereotyping, and no rejection of any group of people.

I applaud my colleagues and I congratulate them and this resolution should be passed and joined by our colleagues so that all of us can stand as equal citizens welcoming our participation in the political process for a great democracy.

Mr. WU. Mr. Speaker, I thank the gentlewoman from Texas (Ms. JACKSON-LEE) for her comments.

Mr. LANTOS. Mr. Speaker, I rise to urge my colleagues to support the adoption of H. Con. Res. 124 expressing the sense of the Congress relating to recent allegations of espionage and illegal campaign financing that have brought into question the loyalty and probity of Americans of Asian ancestry.

Mr. Speaker, I wish to pay tribute to our distinguished colleague from Oregon (Mr. WU), who is the author of this resolution. This resolution is an important reminder to all Americans that we must never impute the actions of an individual to an entire group of people, and a reminder to all of us that America is a land of immigrants and that all Americans—regardless of their ethnic background—are entitled to the privileges and rights that are afforded by our Constitution.

I also want to recognize the principal Republican cosponsor of this legislation, our distinguished colleague from California (Mr. CAMPBELL). I have known Congressman CAMPBELL since he was first elected to the House of Representatives, and I have the highest regard for his integrity and his commitment to the civil rights of all Americans.

Mr. Speaker, the greatness of our nation rests in its diversity. The different cultures and

varied experiences that groups of various ethnic origin bring to our nation are major factor in the vigor and strength of our nation. We owe a great deal to the Americans of Asian ancestry for the values and vitality that they bring to our nation.

It is unfortunate, Mr. Speaker, that in the excitement and hysteria surrounding the issue of espionage by agents of the People's Republic of China the loyalty and patriotism of an entire class of American citizens—Americans of Asian ancestry—were brought into question. In the past our nation has condemned such scapegoating of an entire group of people, but now the China espionage hysteria has led to a similar problem with Asian-Americans.

Mr. Speaker, some 120,000 Asian/Pacific Americans serve in positions in the United States government and military—these are loyal, dedicated Americans who make important contributions to our nation and our national security. The resolution we are considering today reaffirms the importance of judging every man and woman by his or her own actions and recognizes the danger of racial or ethnic stereotyping.

Bigotry and racism have no place in the United States, Mr. Speaker, and I urge my colleagues to reaffirm that essential principle by supporting H. Con. Res. 124.

Mr. WU. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 124

Whereas the right to life, liberty, and the pursuit of happiness are truths we hold as self-evident;

Whereas all Americans are entitled to the equal protection of law;

Whereas Americans of Asian ancestry have made profound contributions to American life, including the arts, our economy, education, the sciences, technology, politics, and sports, among others;

Whereas Americans of Asian ancestry have demonstrated their patriotism by honorably serving to defend the United States in times of armed conflict, from the Civil War to the present; and

Whereas due to recent allegations of espionage and illegal campaign financing, the loyalty and probity of Americans of Asian ancestry has been questioned: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) no Member of Congress or any other American should generalize or stereotype the actions of an individual to an entire group of people;

(2) Americans of Asian ancestry are entitled to all rights and privileges afforded to all Americans; and

(3) the Attorney General, the Secretary of Energy, and the Commissioner of the Equal Employment Opportunity Commission should, within their respective jurisdictions, vigorously enforce the security of America's national laboratories and investigate all allegations of discrimination in public or private workplaces.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANTITRUST TECHNICAL CORRECTIONS ACT OF 1999

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1801) to make technical corrections to various antitrust laws and to references to such laws, as amended.

The Clerk read as follows:

H.R. 1801

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 ''Antitrust Technical Corrections Act of 1999''.

SEC. 2. AMENDMENTS.

(a) ACT OF MARCH 3, 1913.—The Act of March 3, 1913 (chapter 114, 37 Stat. 731; 15 U.S.C. 30) is repealed.

(b) PANAMA CANAL ACT.— Section 11 of the Panama Canal Act (37 Stat. 566; 15 U.S.C. 31) is amended by striking the undesignated paragraph that begins ''No vessel permitted''.

(c) SHERMAN ACT.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by inserting ''(a)'' after ''SEC. 3.'', and

(2) by adding at the end the following:

''(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.''.

(d) WILSON TARIFF ACT.—

(1) TECHNICAL AMENDMENT.—The Wilson Tariff Act (28 Stat. 570; 15 U.S.C. 8 et seq.) is amended—

(A) by striking section 77, and

(B) in section 78—

(i) by striking ''76, and 77'' and inserting ''and 76'', and

(ii) by redesignating such section as section 77.

(2) CONFORMING AMENDMENTS TO OTHER LAWS.—

(A) CLAYTON ACT.—Subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) is amended by striking ''seventy-seven'' and inserting ''seventy-six''.

(B) FEDERAL TRADE COMMISSION ACT.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by striking ''77'' and inserting ''76''.

(C) PACKERS AND STOCKYARDS ACT, 1921.—Section 405(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 225(a)) is amended by striking ''77'' and inserting ''76''.

(D) ATOMIC ENERGY ACT OF 1954.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking ''seventy-seven'' and inserting ''seventy-six''.

(E) DEEP SEABED HARD MINERAL RESOURCES ACT.—Section 103(d)(7) of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1413(d)(7)) is amended by striking ''77'' and inserting ''76''.

SEC. 3. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION TO CASES.—(1) Section 2(a) shall apply to cases pending on or after the date of the enactment of this Act.

(2) The amendments made by subsections (b), (c), and (d) of section 2 shall apply only with respect to cases commenced on or after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois (Mr. HYDE) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1801.

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

There was no objection.

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

Mr. Speaker, I rise in support of H.R. 1801, the ''Antitrust Technical Corrections Act of 1999,'' which I have introduced with the gentleman from Michigan (Mr. CONYERS), the ranking member.

H.R. 1801 makes four separate technical corrections to our antitrust laws. Three of these corrections repeal outdated provisions of the law, the requirement that depositions in antitrust cases brought by the Government be taken in public; the prohibition on violators of the antitrust laws passing through the Panama Canal; and a redundant and rarely used jurisdiction and venue provision.

The last one clarifies a long existing ambiguity regarding the application of Section 2 of the Sherman Act to the District of Columbia and the territories.

The committee has informally consulted the antitrust enforcement agencies, the Antitrust Division of the Department of Justice and the Bureau of Competition of the Federal Trade Commission, and the agencies have indicated they do not object to any of these changes.

In response to written questions following the committee's November 5, 1997, oversight hearing on the antitrust enforcement agencies, the Department of Justice recommended two of the repeals and the clarification contained in this bill. The other repeal was recommended to the committee by House Legislative Counsel. In addition, the Antitrust Section of the American Bar Association supports the bill.

Mr. Speaker, I include their comments for the RECORD at this point.

COMMENTS ON THE ''ANTITRUST TECHNICAL CORRECTIONS ACT OF 1999'' (H.R. 1801) BY THE SECTION OF ANTITRUST LAW OF THE AMERICAN BAR ASSOCIATION

The Antitrust Technical Corrections Act of 1999 (HR 1801) would bring minor but useful revisions to several provisions of the antitrust laws. The Section of Antitrust Law (''Antitrust Section'') of the American Bar

Association (''ABA'') believes that the amendments contemplated in this bill would improve the administration and enforcement of the laws. These views are presented on behalf of the Antitrust Section and have not been approved by the ABA House of Delegates or the ABA Board of Governors and, thus, should not be construed as representing the position of the ABA.

1. CONTENTS OF H.R. 1801

1. Repeal of the Publicity in Taking Evidence Act of 1913 regarding public depositions for use in suits in equity (15 U.S.C. §30).

2. Repeal of the provision of the Panama Canal Act which bars the use of Panama Canal to violators of antitrust laws (15 U.S.C. §31).

3. Addition to 15 U.S.C. §3 to include prohibitions for restraints of trade in and among the Territories of the United States and the District of Columbia.

4. Technical amendments to the Wilson Tariff Act (28 Stat. 570).

2. THE ANTITRUST SECTION OF THE ABA SUPPORTS H.R. 1801

1. Repeal of the Publicity in Taking Evidence Act of 1913 (15 U.S.C. 30).

The publicity in Taking Evidence Act of 1913, 15 U.S.C. §30, requires public depositions in any suit in equity by the United States under the Sherman Act. In most actions under the antitrust laws, judges have discretion to control public access, and option that can be essential in high profile proceedings. Uncontrolled access increases the potential for discovery proceedings devolving into a circus atmosphere. Unexpected or unmanageable crowds seeking to attend a deposition can cause it to be moved, delayed, or altered in a manner that disrupts the discovery phase of a proceeding. The scheduling of such depositions is already difficult, and the cases in which they occur may be on tight deadlines. Section 30 is an anachronism that removes the ability of a judge to control public access to depositions in cases where such cases could be detrimental to the orderly conduct of a case.[1]

There is no reason why one type of action brought by the U.S. should have a special rule for the taking of depositions, especially when that rule is likely to be invoked in situations that would cause disruption and delay. There does not appear to be any compelling interest in forcing depositions in equity cases to be open to any and all audiences, since the Federal Rules of Civil Procedures (see Rules 43(a) and 77(b)) already insure that the public has access to civil antitrust trials. The Antitrust Section believes the issue of public access to depositions ought to remain a matter for the presiding judge to determine. Therefore, it supports the repeal of this antiquated law.

2. Repeal of antitrust provisions of the Panama Canal Act (15 U.S.C. §31)

Pursuant to 15 U.S.C. §31, the Panama Canal is closed to violators of the antitrust laws. Specifically, no vessel owned by any individual or company that is violating the antitrust laws may pass through the canal. Setting aside the ambiguity of the language of this law, any penalty it imposes is in addition to the sanctions available under the Sherman and Clayton Acts. Specifically, criminal violations of the Sherman Act are felonies that are punishable by fines up to $10,000,000 for corporations, or $350,000 for individuals, and/or imprisonment for up to 3 years. Fines of much larger amounts are authorized where profit or injury exceeds $10,000,000.[2] Moreover, pursuant to 15 U.S.C. §6, violators of section one of the Sherman Act are also subject to asset forfeiture. Additionally, section four of the Clayton Act provides treble damages for successful private antitrust claims. Further, section 16 of the Clayton Act allows for injunctive relief.

The Antitrust Section believes it is through the sanctions of the Sherman and Clayton Acts that the antitrust policy of deterrence will be most effectively advanced. There has been a great deal of debate in Congress, in the courts and in the agencies over the proper combination of injunctions, fines, forfeitures, and sentences to ensure competition and deter potential violators. The Panama Canal Act's provision dealing with antitrust penalties is at best unnecessary. At worst it could encourage ill-considered interference with international completion of the foreign relations of the United States.[3] Therefore, the Antitrust Section supports the repeal of this provision.

3. Addition to 15 U.S.C. §3

HR 1801 clarifies that the antitrust laws encompass the District of Columbia and the territories of the United States by adding to 15 U.S.C. §3[4] the following language as section 3(B):

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the Territories of the United States and the District of Columbia, or between any of the several States and any Territory of the United States or the District of Columbia, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishment, in the discretion of the court.[5]

Current section 3 (to become 3(a) under the amendment) already covers trade between the District or any Territory and the states or foreign countries. The failure of section 3 to address trade among the Territories and the District simply invites arguments that such circumstances remain outside the reach of the antitrust laws. No good reason has been offered for the failure, and the Section is aware of none. Further, current section 3 uses the terms of section 1 (generally applicable to conspiracies), but not section 2 (applicable to monopolization).[6] Consequently, the new language clarifies that conduct prohibited by section 2 is covered in Washington, D.C. and United States territories. The Antitrust Section supports this correction.

However, it should be noted that as it stands section 2(c) of the bill refers to the wrong section of the United States Code. The correct section to be amended appears to be 15 U.S.C. §3 (not 15 U.S.C. §2 as noted in the bill). The Antitrust Section suggests correcting this minor discrepancy in the bill.

4. Technical amendments to the Wilson Tariff Act (28 Stat. 570).

Section 77 of the Wilson Tariff Act of 1894 gives antitrust jurisdiction to any ''circuit court of the United States in the district in which the defendant resides or is found.''[7] This section was never codified in the United States Code.

Section 77 is an antiquated piece of legislation that may confuse those that come across it. It is an anomaly to the traditional jurisdiction of federal district courts in construing claims sounding in antitrust law. The jurisdictional provisions of the United States Code vest jurisdiction over cases arising under the antitrust laws in the United States District Courts. A provision allocating jurisdiction of similar cases in different courts can only complicate proceedings and impede the effective administration of antitrust law. By deleting this section, Congress would preserve the general jurisdictional provisions pertaining to the antitrust laws, and would prevent confusion that this section of the Tariff Act may create. Therefore, the Antitrust Section supports this technical amendment.

3. CONCLUSION

HR 1801 is a helpful piece of legislation that helps clarify and update the antitrust laws. The Antitrust Section of the ABA supports the changes contemplated in HR 1801.

Mr. Speaker, I believe all these provisions are noncontroversial and they will help clean up some underbrush in the antitrust laws. I recommend that the House suspend the rules and pass the bill, as amended by the managers' amendment.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1801, the ''Antitrust Technical Corrections Act,'' makes four noncontroversial changes in our antitrust laws to repeal some outdated provisions of the law and to clarify that our antitrust laws apply to the District of Columbia and to the territories.

The gentleman from Illinois (Chairman HYDE) and the gentleman from Michigan (Mr. CONYERS) have worked together on this bill and they have consulted with the Department of Justice

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[1] *See* U.S. v. Microsoft, 165 F.3d 952, 953 (D.C. Cir. 1999).

[2] See U.S. v. F. Hoffman-LaRoche LTV, Crim. No. 99–CR–184–R (N.D. Tex May 20, 1999). Hoffman-La Roche agreed to pay $500,000,000 in fines for involvement in a vitamin price-fixing conspiracy.

[3] Especially, in view of the fact that control over the Canal reverts to Panama on January 1, 2000, the United States code should not contain provisions such as these.

[4] Currently, U.S.C §3 prohibits restraints for trade in and among the District Columbia, United States Territories, and other states. The penalties are the same as those set out in section one of the Sherman Act (15 U.S.C. 1).

[5] Compare with section 2 of the Sherman Act (15 U.S.C. §2): Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or by both said punishment, in the discretion of the court.

[6] Section 3 currently reads: Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding $10,000,000 if a corporation, or, if any other person, $350,000, or by imprisonment not exceeding three years, or both said punishments in the discretion of the court. 15 U.S.C.A. §3 (1890).

[7] Wilson Tariff Act. ch. 349, 28 Stat. 509 (Aug. 27, 1894). In its entirety, section 77 reads: That any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this Act may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee. *Id.*

Antitrust Division and the Federal Trade Commission Bureau of Competition to ensure these technical changes improve the efficiency of our antitrust laws.

The first change will permit depositions taken in Sherman Act equity cases brought by the Government, to be conducted in private, just as they are in all other types of cases.

In the early days of the Sherman Act, the courts conducted such cases by deposition without any formal trial proceeding. Now that the trials are conducted in public, it is no longer necessary to hold the depositions in public.

The problem with having public depositions became clear during the deposition of Bill Gates during the Microsoft antitrust case. The public deposition created a circus atmosphere, and the D.C. Circuit Court invited Congress to repeal this law. With this change, antitrust depositions will be treated like those in all other cases.

The second change repeals a little-known and little-used provision that prohibits vessels from passing into the Panama Canal if the vessel's owner is violating the antitrust laws. With the return of the Canal to Panama at the end of 1999, it is appropriate to repeal this outdated provision.

The third change clarifies that Sherman Act's prohibitions on restraint of trade and monopolization apply to conduct occurring in the District of Columbia and the various territories of the United States. We believe that it was always Congress' intent for the Sherman Act to apply in the District and the territories, and this amendment merely clarifies the scope of our antitrust laws. However, because this clarification could affect the standards of rights of litigants under pending cases, and to avoid changing the rules in the middle of litigation, this provision will only apply to cases filed on or after the enactment date of this act.

Finally, this bill repeals a redundant jurisdiction and venue provision in Section 77 of the Wilson Tariff Act. Repealing Section 77 will not diminish any jurisdiction of venue rights of litigants because Section 4 of the Clayton Act provides any potential plaintiff with broader rights of jurisdiction and venue than does Section 77.

There is also a manager's amendment that clarifies some technical aspects of H.R. 1801. I recommend that the manager's amendment be adopted and that H.R. 1801 be approved, as amended. With these changes, our antitrust laws will be more clear, consistent, and efficient.

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

Mr. HYDE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have the honor of yielding 5 minutes to the distinguished gentleman from Minnesota (Mr. MINGE).

Mr. MINGE. Mr. Speaker, I would like to thank the gentlewoman for yielding me the time.

Mr. Speaker, I would like to begin by stating that I fully support the legislation. I also appreciate the attention to the antitrust activities that has been given by the Committee on the Judiciary in the last month.

The gentleman from Illinois (Chairman HYDE) scheduled hearings on concentration in the agricultural sector and problems of slotting fees in retailing. I had an opportunity to testify at that hearing. What I would like to do is to urge my colleagues to join me and several other Members of this body in focusing attention on what is happening in our economy.

Here in the late 1990s, we have seen an increasing pace in consolidations and mergers in our economy. The level of concentration is growing dramatically. It is continuing a trend that has existed perhaps for several decades, and it is a trend that has some alarming implications. Namely, what type of a competitive marketplace do we as Americans need in order for our economy to continue to be innovative, to continue to be successful, and to continue to thrive and provide leadership in a global economy?

Secondly, what type of concentration can we have in this economy and still have those that deal with the bottlenecks that are created by this concentration treated fairly?

I would like to turn my attention to agriculture in particular. When we look at the ag sector of our economy and recognize that a handful of firms control meat packing, control movement of grain, control seed stock and other supplies that farmers use that are now entering into contracts with farmers to purchase seed, to grow crops based on that seed, and to deliver the crops for more specific uses based upon the genetic character of those seed, we recognize that farmers are increasingly becoming contractors in our economy and they are increasingly dependent upon those contracts for their survival.

Each stage of the process is one that is carefully monitored by larger firms. And as they see the opportunity to capture profit in this process, the farmer's opportunity to survive in our economy is diminished.

It is for this reason that I have joined with my colleague the gentleman from North Dakota (Mr. POMEROY) and my colleague the gentlewoman from Wisconsin (Ms. BALDWIN) to introduce legislation that would impose a moratorium on mergers and consolidations in the ag-tech sector and order an 18-month study of this with recommendations to Congress as to appropriate legislative response.

I will also be dropping legislation within the next few days that will provide farmers in the hog sector with some degree of protection from the vertical integration that has such a devastating impact on their opportunity to continue to raise hogs independently.

What we saw in the poultry sector of agriculture 20 years ago is now happening with hogs. It is estimated that 75 percent of the hogs in this country are marketed pursuant to contracts, not into an open market setting. As we lose the smaller farming operations and the opportunity for farmers to raise hogs, we are losing one of the profit centers that has existed in agriculture.

The word has always been that hogs are the mortgage lifters on the farm. They are the dependable source of income and profit that enable farmers to pay off the mortgages. And without that opportunity, the diversification that is so important in agriculture is lost.

So I would like to urge that my colleagues recognize the seriousness of the problem that we face in the ag sector and that we join together as an institution on a bipartisan basis on behalf of America's farmers to ensure that they continue to have the opportunity to earn a living and be an important part of the rural economy.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Minnesota for bringing this instructive insight to this discussion.

Mr. UNDERWOOD. Mr. Speaker, I rise in support of H.R. 1801 which makes technical corrections in various antitrust laws and to the references of such laws. I thank Chairman HYDE and the Ranking Democrat, Mr. CONYERS, for the work they did on this legislation to ensure the protection of American consumers. I would like to recognize that this legislation, which among other things, clarifies the application of the Sherman Act to the U.S. Territories, is supported by my fellow colleagues from the U.S. Virgin Islands, American Samoa, the District of Columbia, and Puerto Rico.

The challenges faced by U.S. Territories are multi-faceted. In many respects, our relationship with the United States stems from the benefits we provide based on our geography. This benefit which helped us become a part of the American family can also be a disadvantage for the development of our economies. Save for Puerto Rico and the District of Columbia, Guam is the next most populated territory with 150,000 citizens. We are also coincidentally the furthest territory from the U.S. mainland.

Our population and remoteness has proved challenging in the development of our economy. We have worked to develop a top-notch tourism industry and encourage entrepreneurship amongst our residents. Our focus to ensure a healthy tourism industry has resulted in the construction of world class hotels, such as the Hilton, the Nikko Hotel, and the Hyatt. Our success in fostering at least 1.3 million tourists a year has caught the attention of many well-known U.S. based companies, who have established themselves on Guam. Major retailers like K-mart and Costco, trendy restaurants like Hard Rock Café and Planet Hollywood, and numerous fast food restaurants have found a profitable and competitive home in Guam.

Like many other communities in the U.S. with a similar population to Guam, there is a potential for sectors in an industry to monopolize the needs of a community. It's an extremely complex endeavor to prove, that a company is illegally monopolizing an industry,

but it's a topic that is inevitably posed to small communities. H.R. 1801 clarifies that small communities, like the U.S. Territories, will not be the subject of monopolization and imposes hefty penalties for companies or individuals found engaged in such business activities. This is good legislation and good protection for consumers, small businesses and entrepreneurs.

Again, I thank Chairman HYDE for introducing this legislation and encourage my colleagues to support this measure.

Mr. JACKSON-LEE of Texas. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the bill, H.R. 1801, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1600

NOTIFICATION OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. KUCINICH. Mr. Speaker, pursuant to clause 2(a)(1) of rule IX, I rise to give notice of my intent to present a question of privilege of the House.

The form of the resolution is as follows:

Calling on the President to abstain from renegotiating international agreements governing antidumping and countervailing measures.

Whereas under Art. I, Section 8 of the Constitution, the Congress has power and responsibility with regard to foreign commerce and the conduct of international trade negotiations;

Whereas the House of Representatives is deeply concerned, that in connection with the World Trade Organization (''WTO'') Ministerial meeting to be held in Seattle, Washington, and the multilateral trade negotiations expected to follow, few countries are seeking to circumvent the agreed list of negotiations topics and reopen debate over the WTO's antidumping and antisubsidy rules;

Whereas the built-in agenda for future WTO negotiations, which was set out in the Uruguay Round package ratified by Congress in 1994, includes agriculture trade, services trade, and intellectual property protection but does not include antidumping or antisubsidy rules;

Whereas the Congress has not approved new negotiations on antidumping or antisubsidy rules and has clearly, but so far informally, signaled its opposition to such negotiations;

Whereas strong antidumping and antisubsidy rules are a cornerstone of the liberal trade policy of the United States and are essential to the health of the manufacturing and farm sectors in the United States;

Whereas it has long been and remains the policy of the United States to support its antidumping and antisubsidy laws and to defend those laws in international negotiations;

Whereas an important part of Congress' participation in the formulation of trade policy is the enactment of official negotiating objectives against which completed agreements can be measured when presented for ratification;

Whereas the current absence of official negotiating objectives on the statute books must not be allowed to undermine the Congress' constitutional role in charting the direction of United State trade policy;

Whereas the WTO antidumping and antisubsidy rules concluded in the Uruguay Round have scarcely been tested since they entered into effect and certainly have not proved defective:

Whereas opening these rules to renegotiation could only lead to weakening them, which would in turn lead to even greater abuse of the world's open markets, particularly that of the United States;

Whereas conversely, avoiding another divisive fight over these rules is the best way to promote progress on the other, far more important, issues facing WTO members; and

Whereas it is therefore essential that negotiations on these antidumping and antisubsidy matters not be reopened under the auspices of the WTO or otherwise: Now, therefore, be it

Resolved, That the House of Representatives calls upon the President—

(1) not to participate in any international negotiation in which antidumping or antisubsidy rules are part of the negotiating agenda;

(2) to refrain from submitting for congressional approval agreements that require changes to the current antidumping and countervailing duty laws and enforcement policies of the United States; and

(3) to enforce the antidumping and countervailing duty law vigorously in all pending and future cases.

The SPEAKER pro tempore (Mr. LAHOOD). Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within 2 legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentleman from Ohio will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution.

The gentleman will be notified.

NURSING RELIEF FOR DISADVANTAGED AREAS ACT OF 1999

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 441) to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas.

The Clerk read as follows:

Senate Amendment:

Page 18, after line 5, insert:

SEC. 5. NATIONAL INTEREST WAIVERS OF JOB OFFER REQUIREMENTS FOR ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.

Section 203(b)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(B)) is amended to read as follows:

''(B) WAIVER OF JOB OFFER.—

''(i) NATIONAL INTEREST WAIVER.—Subject to clause (ii), the Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

''(ii) PHYSICIANS WORKING IN SHORTAGE AREAS OR VETERANS FACILITIES.—

''(I) IN GENERAL.—The Attorney General shall grant a national interest waiver pursuant to clause (i) on behalf of any alien physician with respect to whom a petition for preference classification has been filed under subparagraph (A) if—

''(aa) the alien physician agrees to work full time as a physician in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals or at a health care facility under the jurisdiction of the Secretary of Veterans Affairs; and

''(bb) a Federal agency or a department of public health in any State has previously determined that the alien physician's work in such an area or at such facility was in the public interest.

''(II) PROHIBITION.—No permanent resident visa may be issued to an alien physician described in subclause (I) by the Secretary of State under section 204(b), and the Attorney General may not adjust the status of such an alien physician from that of a nonimmigrant alien to that of a permanent resident alien under section 245, until such time as the alien has worked full time as a physician for an aggregate of five years (not including the time served in the status of an alien described in section 101(a)(15)(J)), in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals or at a health care facility under the jurisdiction of the Secretary of Veterans Affairs.

''(III) STATUTORY CONSTRUCTION.—Nothing in this subparagraph may be construed to prevent the filing of a petition with the Attorney General for classification under section 204(a), or the filing of an application for adjustment of status under section 245, by an alien physician described in subclause (I) prior to the date by which such alien physician has completed the service described in subclause (II).

''(IV) EFFECTIVE DATE.—The requirements of this subsection do not affect waivers on behalf of alien physicians approved under section 203(b)(2)(B) before the enactment date of this subsection. In the case of a physician for whom an application for a waiver was filed under section 203(b)(2)(B) prior to November 1, 1998, the Attorney General shall grant a national interest waiver pursuant to section 203(b)(2)(B) except that the alien is required to have worked full time as a physician for an aggregate of three years (not including time served in the status of an alien described in section 101(a)(15)(J)) before a visa can be issued to the alien under section 204(b) or the status of the alien is adjusted to permanent resident under section 245.''.

SEC. 6. FURTHER CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING FIRMS.

Section 206(a) of the Immigration Act of 1990 (8 U.S.C. 1101 note) is amended to read as follows:

''(a) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING AND MANAGEMENT CONSULTING FIRMS.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, and for no other purpose, in the case of a partnership that is organized in the United States to provide accounting or management consulting services and that markets its accounting or management consulting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is collectively owned and controlled by the member accounting and management consulting firms or by the elected members

(partners, shareholders, members, employees) thereof, an entity that is organized outside the United States to provide accounting or management consulting services shall be considered to be an affiliate of the United States accounting or management consulting partnership if it markets its accounting or management consulting services under the same internationally recognized name directly or indirectly under an agreement with the same worldwide coordinating organization of which the United States partnership is also a member. Those partnerships organized within the United States and entities organized outside the United States which are considered affiliates under this subsection shall continue to be considered affiliates to the extent such firms enter into a plan of association with a successor worldwide coordinating organization, which need not be collectively owned and controlled.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

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

There was no objection.

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

Mr. Speaker, a number of hospitals with unique circumstances continue to experience great difficulty in attracting American nurses. This is especially true of hospitals serving mostly poor patients in inner city neighborhoods and some hospitals in rural areas. H.R. 441, the Nursing Relief for Disadvantaged Areas Act of 1999, was introduced by the gentleman from Illinois (Mr. RUSH) and has been drafted very narrowly to help precisely these kinds of hospitals. It would create a new temporary registered nurse visa program designated ''H–1C'' that would provide up to 500 visas a year and that would sunset in 4 years. Because it is so narrowly drafted, it is not opposed by the American Nurses Association.

To be able to petition for an alien, an employer would have to meet four conditions. First, the employer would have to be located in a health professional shortage area as designated by the Department of Health and Human Services. Second, the employer would have to provide at least 190 acute care beds. Third, a certain percentage of the employer's patients would have to be Medicare patients. And, fourth, a certain percentage of patients would have to be Medicaid patients.

The House passed H.R. 441 on May 24, 1999. Two weeks ago, the Senate added two amendments to H.R. 441 and then passed the bill. The first amendment allows certain areas with a shortage of health care professions to have easier access to foreign physicians. The provision directs the Attorney General to waive, in the national interest, the labor certification requirement for certain alien physicians applying for visas in the employment-based third preference immigrant visa category. These national interest waivers will be available to those alien physicians who agree to work full time as a physician in an area or areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals or at a health care facility under the jurisdiction of the Secretary of Veterans Affairs. By allowing alien physicians and the medical facilities that employ them to avoid the labor certification process, this provision ensures that residents of areas with a shortage of health care professionals will have access to quality health care. Language is included requiring the alien physicians who benefit from a national interest waiver work as physicians for 5 years in areas with a shortage of health care professionals, an increase of 2 years from the requirement of current law.

The second amendment is a technical clarification to the L visa which is a temporary, nonimmigrant visa. The L visa permits an American company which is part of an international business to make intracompany transfers to this country from abroad of foreign executives, managers and employees with specialized knowledge.

In 1990, Congress in section 206(a) of the Immigration Act of 1990 made a technical clarification to the L visa program to assure that international accounting firms and their related management consulting practices would qualify for use of the L visa. Congress believed that this clarification was needed because, for legal and historical reasons, these firms are not structured in the same way that most international corporations are structured. The laws of different foreign countries pertaining to the accounting profession have caused international accounting and associated management consulting businesses to be generally organized as partnerships held together by contracts with a worldwide coordinating organization. Congress made sure in 1990 that these international positions were not disadvantaged under the L visa program just because they were not structured like traditional corporations.

The second amendment makes sure that our immigration laws keep up with changes in the global economy. It simply assures that any international management consulting firm that separates from an international accounting firm but continues to keep the qualifying worldwide organizational structure may continue to use the L visa as it has in the past. Accordingly, no new category of visa is created and no new influx of L visa holders will occur. Attached to my remarks is an Interpretation of Technical Amendment which further explains this provision.

INTERPRETATION OF TECHNICAL AMENDMENT

''Collective'' and ''collectively'' refer to a relationship between the accounting and management consulting firms or the elected members (partners, shareholders, members, employees) of the various accounting and management consulting firms inclusive of both accounting service firms and management consulting service firms or the elected members (partners, shareholders, members, employees) thereof.

An entity shall be considered to be ''marketing its services under the same internationally recognized name directly or indirectly under an agreement'' if it engages in a trade or business and markets its trade or business under the same internationally recognized name and one of the following direct or indirect relationships apply to the entity:

(a) It has an agreement with the worldwide coordinating organization, or

(b) It is a parent, branch, subsidiary or affiliate relationship to an entity which has an agreement with a qualifying worldwide coordinating organization, or

(c) It is majority owned by members of such entity with an agreement and/or the members of its parent, subsidiary or affiliate entities, or

(d) It is indirectly party to one or more agreements connecting it to the worldwide coordinating organization, as shown by facts and circumstances.

This provision is intended to provide the basis of continued L visa program eligibility for those worldwide coordinating organizations which may in the future divide or spin-off parallel business units which may independently plan to associate with a non-collective worldwide coordinating organization.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the Nursing Relief for Disadvantaged Areas Act of 1999. I thank the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) for shepherding this legislation through our full committee, I thank the chairman of the Subcommittee on Immigration and Claims, a committee on which I serve as the ranking member, and I particularly thank the distinguished gentleman from Illinois (Mr. RUSH) who had the insight and the leadership to bring this legislation forward.

It is important as we reflect upon and respect the nursing profession of this Nation that we also take into consideration any legislation of this type that would not in any way diminish their ability to serve those who are in need. We are here on the floor today to vote on two amendments passed by the United States Senate 2 weeks ago. This bill passed the full House on May 24, 1999.

The first amendment amends the Immigration and Nationality Act that would loosen residency requirements for foreign physicians who serve in underserved areas in the United States. For those physicians, it would provide waivers of the requirement that an employer sponsor individuals seeking to live and work in the United States. This is a good amendment, Mr. Speaker, as it will encourage physicians from other countries to aid the United States in areas and locales where there is a real health care shortage.

The other amendment, Mr. Speaker, deals with the L visa. The L visa is temporary, a temporary nonimmigrant visa allowing a U.S. company which is part of an international business to make intracompany transfers from overseas of foreign executives, managers and employees with specialized knowledge of America. In 1990, Congress clarified that international accounting firms and their related management consulting practices would be able to use the L visas. The effect of this amendment would be to make sure that any international management consulting firm that separates from an international accounting firm yet continues to maintain the qualifying worldwide organizational structure may continue to use the L visa even if it is no longer connected to an accounting firm.

The registered nurse temporary visa program was created by the Immigration Nursing Relief Act of 1989 and expired in September 1997. The Immigration Nursing Relief Act was enacted in response to a nationwide shortage of nurses sufficient to disrupt the delivery of services to patients in some of the health care institutions and to potentially place patients in jeopardy.

I support H.R. 441, because it creates a new registered nurse temporary visa program that would sunset after 5 years. It would limit the number of visas that can be issued to 500 a year and hospitals would be able to petition for an alien nurse to those in need. H.R. 441 would serve to decrease the nursing shortage in the United States and set up an H–1C visa program.

I would also like to note that the American Nursing Association does not oppose this bill and supports the time limits placed on this bill. Additionally, we will be working with them to ensure that the elements of this bill will ultimately serve its purpose to help those in need of nursing care.

Again, the bill's sponsor's leadership on this issue has been tenacious. He has worked on this issue for well over a year to limit the shortage of health care professionals not only in the First Congressional District of Illinois but in the inner cities and rural communities across this Nation. I support this amendment as it is employer and employee friendly, Mr. Speaker.

I urge my colleagues to support H.R. 441 as amended by the Senate.

Mr. Speaker, I would like to thank the gentleman from Texas, Congressman LAMAR SMITH, the Chairman of our Immigration and Claims Subcommittee on which I serve as Ranking Member, and Congressman BOBBY RUSH, the gentleman from Illinois who had the insight and the leadership to bring this legislation forward. I also would like to thank Mr. HYDE and Mr. CONYERS for passing this bill out of the full Judiciary Committee.

We are here on the floor today to vote on two amendments passed by the U.S. Senate two weeks ago. This bill passed the full House on May 24, 1999. The first amendment amends the Immigration and Nationality Act that would loosen residency requirements for foreign physicians who serve in underserved areas in the United States. For those physicians, it would provide waivers of the requirement that an employer sponsor individuals seeking to live and work in the United States. This is a good amendment Mr. Speaker, as it will encourage physicians from other countries to aid the United States in areas and locales where there is a real health care shortage. This will not displace American doctors.

The other amendment Mr. Speaker deals with the L visa. The L visa is a temporary, nonimmigrant visa allowing a U.S. company which is part of an international business to make intra-company transfers from overseas of foreign executives, managers, and employees with specialized knowledge to America. In 1990, Congress clarified that international accounting firms and their related management consulting practices would be able to use the L visas. The effect of this amendment would be to make sure that any international management consulting firm that separates from an international accounting firm, yet continues to maintain the qualifying worldwide organizational structure, may continue to use the L visa even if it is no longer connected to an accounting firm.

The Registered Nurse Temporary Visa Program was created by the Immigration Nursing Relief Act of 1989 and expired in September 1997. The Immigration Nursing Relief Act was enacted in response to a nationwide shortage of nurses sufficient to disrupt the delivery of services to patients in some of health care institutions and to potentially place patients in jeopardy.

I support H.R. 441 bill because it creates a new registered nurse temporary visa program that would sunset after 5 years. It would limit the number of visas that can be issued to 500 a year and hospitals would be able to petition for an alien nurse to serve those "in need."

H.R. 441 would serve to decrease the nursing shortage in the United States, and set up a new H1–C visa program.

I would also like to note that the American Nursing Association does not oppose this bill and supports the time limits placed on the bill.

I now would like to yield five minutes to the bill's sponsor Mr. RUSH of Illinois, again whose leadership on this issue has been tenacious as he has worked on this issue for well over a year, to limit the shortage of health care professionals not only in the 1st Congressional District of Illinois, but in the inner cities across this nation.

I support these amendments as they are employer and employee friendly, Mr. Speaker. I urge my colleagues to support H.R. 441, as amended by the Senate.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. RUSH).

Mr. RUSH. Mr. Speaker, I want to thank the gentlewoman from Texas for yielding this time to me.

Mr. Speaker, I want to also thank the gentlewoman from Texas for all of the work that she has done on behalf of this bill at the committee level and at the subcommittee level. I want to thank the gentleman from Illinois (Mr. HYDE), the chairman of the committee, for all his work. I want to also thank the ranking member the gentleman from Michigan (Mr. CONYERS) for all the work that he did on behalf of this bill, and also I want to thank the gentleman from Texas (Mr. SMITH), the chairman of the subcommittee, for all the work that he did on behalf of this bill.

Mr. Speaker, as the sponsor of the Nursing Relief for Disadvantaged Areas Act of 1999, I also support certain provisions that were added in the Senate by unanimous consent and that enjoy strong bipartisan support. Specifically, I refer to a provision added by Senator HATCH which is merely a technical clarification to the L visa.

As my colleagues know, the L visa is a temporary, nonimmigrant visa. The technical amendment permits an American company which is part of an international business, to transfer managers and employees to the United States from a foreign country. This amendment allows American companies to remain competitive.

Additionally, another provision added by Senators LOTT and DASCHLE allow foreign doctors to work for 5 years in disadvantaged areas, provided, and I repeat, provided that no American doctors are available to perform these jobs.

□ 1615

I want to assure my colleagues that these amendments will not take jobs away from our American doctors and these amendments are within the spirit of this legislation.

Hence, I rise today to encourage my colleagues to vote for H.R. 441, as amended by the Senate. As you may know, my reason for introducing and encouraging support for this legislation is quite simple. It will assist the underserved communities of this Nation by providing adequate health care for their residents.

Today there are some areas in this country which experience a scarcity of health professionals. Even though numbers indicate that no nursing shortage exists nationally, such an area exists in my district, the First District of Illinois. The Englewood community, a poor, urban neighborhood with a high incidence of crime, is primarily served by one hospital, and that hospital is the St. Bernard's Hospital. This small community hospital's emergency room averages approximately 31,000 visits per day. Fifty percent of their patients are Medicaid recipients and 35 percent receive Medicare.

The Immigration Nursing Relief Act of 1989 created the H–1A visa program in order to allow foreign-educated nurses to work in the United States. The rationale for the H–1A program, as acknowledged by the AFL–CIO, the American Nurses Association and others, was to address spot shortage areas. St. Bernard's hospital utilized the H–1A program to maintain an adequate nursing staff level.

The H–1A program was vital to St. Bernard's continued existence. Prior to this program, St. Bernard hired temporary nurses. As a result, the hospital's nursing expenditures increased

by approximately $2 million in an effort to provide health care to its patients in 1992. This additional cost brought St. Bernard's close to closing its doors.

The H–1A visa program expired on September 30, 1997. Currently, no program exists that would assist hospitals such as St. Bernard's in their efforts to retain qualified nurses. My legislation merely seeks to close a gap created by the expiration of the H–1A program.

H.R. 441 prescribes that any hospital which seeks to hire foreign nurses under these provisions must meet the following stringent criteria: number one, be located in a health professional shortage area; number two, have at least 190 acute-care beds; number three, have a Medicare population of 35 percent; and, number four, have a Medicaid population of at least 28 percent.

Mr. Speaker, these are stringent requirements. This bill needs the support of the Members of this body, and I encourage Members of this body to support this legislation and support H.R. 441.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

Mr. Speaker, I urge all Members to vote to concur to the Senate amendment to H.R. 441 that will enable the bill to go to the President's desk and become the law of the land.

Mr. HYDE. Mr. Speaker, I want to commend our colleague BOBBY RUSH for introducing this important bill and working over the last two years to ensure its enactment into law.

Two years ago, Representative RUSH and I were approached by St. Bernard Hospital and Health Care Center in Chicago. The hospital, which is the only source of health care for an entire impoverished section of the City of Chicago, was having great difficulty attracting sufficient American nurses. St. Bernard's and a number of other inner-city hospitals, perhaps because of the high crime rates in their neighborhoods, were having this problem. So were a number of rural hospitals. St. Bernard's felt that its only viable option to fully meet its nursing needs was to employ foreign nationals.

There isn't a nationwide nursing shortage in the United States. So, there does not appear to be the support to implement a broad-based nurse visa program. However, a narrowly crafted program to help out hospitals in need is eminently justified. This is exactly what H.R. 441 accomplishes. The bill would create a new temporary registered nurse visa program designated ''H–1C'' that would provide up to 500 visas a year and that would sunset in four years.

To be able to petition for an alien nurse, a hospital would have to meet four conditions. First, it would have to be located in a health professional shortage area as designated by the Department of Health and Human Services. Second, it would have to have at least 190 acute care beds. Third, a certain percentage of its patients would have to be Medicare patients. Fourth, a certain percentage of patients would have to be Medicaid patients.

H.R. 441 meets an undisputed need. Thus, it is not opposed by the American nurses association. I was pleased to move the bill through the Judiciary Committee, and I urge my colleagues to support it.

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

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and concur in the Senate amendment to H.R. 441.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Ms. KAPTUR. Mr. Speaker, pursuant to clause 2(a)(1) of House Rule IX, I rise to give notice of my intent to present a question of privilege to the House. The form of the resolution is as follows and relates to maintaining antidumping and countervailing measures as relates to our trade laws. It calls on the President to abstain from renegotiating international agreements governing antidumping and countervailing measures.

We know the World Trade Organization is about to meet in Seattle, and whereas under Article I, Section 8 of the Constitution, the Congress has the power and responsibility with regard to foreign commerce and the conduct of international trade negotiations;

Whereas the House of Representatives is deeply concerned that in connection with the World Trade Organization ministerial meeting to be held in Seattle, Washington, later this month, and the multilateral trade negotiations expected to follow, a few countries are seeking to circumvent the agreed list of negotiation topics and reopen the debate over the World Trade Organization's antidumping and anti subsidy rules;

Whereas the Congress has not approved new negotiations on antidumping or antisubsidy rules and we have clearly, but so far informally, signalled opposition to such negotiations;

Whereas strong antidumping and antisubsidy rules are a cornerstone of the liberal trade policy of the United States and are essential to the health of the manufacturing and farm sectors here in our country;

And whereas it has long been and remains the policy of the United States to support antidumping and antisubsidy laws and to defend those laws in international negotiations;

Whereas the current absence of official negotiating objectives on the statute books must not be allowed to undermine the Congress' constitutional role in charting the direction of U.S. trade policy;

Whereas, under present circumstances, launching a negotiation that includes antidumping and antisubsidy issues would affect the rights of the House and the integrity of its proceedings;

Whereas the WTO antidumping and antisubsidy rules concluded in the Uruguay Round have scarcely been tested since they entered into effect and certainly have not proven effective in view of our trade deficit;

Whereas opening these rules to renegotiation could only lead to weakening them, which would in turn lead to even greater abuse of the world's open markets, particularly that of the United States, which has become the greatest dump market in the world;

Whereas conversely, avoiding another decisive fight over these rules is the best way to promote progress on the other far more important issues facing the World Trade Organization Members;

Whereas it is therefore essential that negotiations on these antidumping and antisubsidy matters not be reopened under the auspices of the World Trade Organization or otherwise:

Now, therefore, be it resolved that the House of Representatives calls upon the President (1) not to participate in any international negotiation in which antidumping or antisubsidy rules are part of the negotiating agenda; (2) to refrain from submitting for Congressional approval agreements that require changes to the current antidumping and countervailing duty laws and enforcement policies of the United States; and (3) also calls upon the President to enforce the antidumping and countervailing duty laws vigorously in all pending and future cases.

The SPEAKER pro tempore. Under rule IX, a resolution offered from the floor by a Member other than the majority leader or the minority leader as a question of the privileges of the House has immediate precedence only at a time designated by the Chair within two legislative days after the resolution is properly noticed.

Pending that designation, the form of the resolution noticed by the gentlewoman from Ohio will appear in the RECORD at this point.

The Chair will not at this point determine whether the resolution constitutes a question of privilege. That determination will be made at the time designated for consideration of the resolution and the gentlewoman will be notified.

ANNOUNCEMENT OF INTENTION TO OFFER RESOLUTION RAISING QUESTION OF PRIVILEGES OF THE HOUSE

Mr. TRAFICANT. Mr. Speaker, pursuant to House Rule IX, clause 1, I rise to give notice of my intent to present a question of privilege of the House.

Mr. Speaker, the question of privilege expresses the sense of the House that its integrity has been impuned because the antidumping provisions of the Trade and Tariff Act of 1930, Subtitle B of title VII, have not been enforced.

Therefore, the resolution calls upon the President to, number one, immediately obtain volunteer restraint agreements from Japan, Russia, the Ukraine, Korea and Brazil which limit those countries in July to June fiscal year 1999 to their exports calculated from fiscal year 1998.

Number two, to immediately impose a 1-year ban on imports of hot-rolled steel products and plate steel products that are the product of manufacture of Japan, Russia, the Ukraine, Korea or Brazil, if the President is unable to obtain such volunteer restraint agreements within 10 days.

Number three, to pursue with all tools at his disposal a more equitable sharing of the burden of accepting imports of finished steel products from Asia and the countries within the Commonwealth of Independent States.

Number four, to establish a task force to closely monitor the imports of steel.

Finally, to report to Congress by no later than January 5 with a comprehensive plan for responding to this import surge, including ways of limiting its deleterious effect on employment, prices and investment in the United States steel industry.

The SPEAKER pro tempore. As previously stated by the Chair, the form of the resolution noticed by the gentleman from Ohio will appear in the RECORD at this point, and the Speaker will later designate a time for its consideration and will at that point determine whether the resolution constitutes a question of the privilege. The gentleman will be notified.

SENSE OF CONGRESS SUPPORTING PRAYER AT PUBLIC SCHOOL SPORTING EVENTS

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 199) expressing the sense of the Congress that prayers and invocations at public school sporting events contribute to the moral foundation of our Nation and urging the Supreme Court to uphold their constitutionality.

The Clerk read as follows:

H. CON. RES. 199

Whereas prayers at public school sporting events are entirely consistent with our American heritage of seeking Divine guidance and protection in all of our undertakings;

Whereas sporting events provide a significant and long-lasting impact in character and values development among young people;

Whereas prayers and invocations have been demonstrated to positively affect the fair play and sportsmanlike behavior of both players and spectators at sporting events;

Whereas lower court rulings about prayer at sporting events have placed school and community leaders in the difficult position of choosing between conflicting values, rights, and laws;

Whereas congressional leaders have found value in beginning each legislative day with prayers; and

Whereas statements of belief in a Supreme Power and the virtue of seeking strength and protection from that Power are prevalent throughout our national history, currency, and rituals: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) prayers and invocations at public school sporting events are constitutional under the First Amendment to the Constitution; and

(2) the Supreme Court, accordingly, should uphold the constitutionality of such practices.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Michigan (Mr. Conyers) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 199.

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

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the sponsor of this resolution, the gentleman from Texas (Mr. BONILLA)

Mr. BONILLA. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, we are very proud of a fall tradition we have in Texas. On weekends, Fridays and Saturdays high school stadiums fill up with people to watch high school football.

These are not just events, Mr. Speaker; they are traditions; communities, student bodies, parents, coming together to watch friendly competition and say hello to friends and neighbors. It is about sportsmanship, it is about brotherhood, it is about values.

Traditionally, before each game, voluntary nondenominational prayers have been held, primarily to wish the players an injury-free game and to wish everyone a safe trip home on the road that night.

This tradition has been threatened by a foolish decision in Federal Court. A parent in a town near Houston apparently felt suppressed by the prayer and filed suit. The 5th Circuit Court agreed, and banned voluntary prayer at sporting events.

I think this court decision is wrong. This resolution gives the U.S. Congress the chance to take a stand. Voluntary prayer should not be banned in States.

In this day and age when parents and communities search for answers in helping our young people, what is wrong with voluntary prayer before kick off? There are no mandates in this resolution. I ask my colleagues to join me in taking a stand. Let us tell the court it was wrong. Let us encourage it to reverse its decision and let the children pray.

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

Mr. Speaker, religious freedom has been one of the cornerstones of American democracy since the founding of our Nation, and, like most Members in the body, I remain committed to preserving religious freedom. However, there are serious reservations whether this resolution offers us the best means of protecting our citizens' religious liberties.

To begin with, we have had no deliberative process whatsoever on this complex issue. I was hoping that someone on the other side may enlighten me as to why this could never have come before a subcommittee or a committee for hearings and markup. There has been no opportunity to gauge the seriousness of the problem or determine whether this resolution is an appropriate or reasonable response.

□ 1630

Secondly, the text of the resolution comes very close to not only protecting religious expression, but crossing over and violating the establishment clause. The Supreme Court has consistently held that the coercive mechanics of the State cannot be used to endorse any particular set of religious beliefs. I think we all know that. For public school sporting events, courts have been very generous and have allowed student-led prayers, but have drawn the line at coach-led prayers or using the mechanics of the State, out of fear of a coercive effect.

This resolution appears to go beyond this line, finding that organized and State-led prayer may be constitutional.

Finally, I am concerned that the resolution threatens to abridge our precious separation of powers. The Congress has had enough trouble doing its own business and passing the Nation's budget on time, let alone taking the time to tell the Supreme Court how to resolve highly complex and serious sensitive constitutional arguments.

Under the present constitutional structure of a Bill of Rights protected by an independent judiciary, the courts have done fine in sorting out these issues. Religion is alive and well in America. We have greater religious diversity and more religious observance than any country on the face of the Earth. I seriously question whether this sense of Congress can improve this situation.

Mr. Speaker, if we want to truly protect religious freedom in this country, please reject this well-meaning but flawed resolution.

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

Mr. SMITH of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, first I want to thank my good friend and neighbor, the gentleman from Texas (Mr. BONILLA), for introducing this important resolution. It is vitally important to express the sense of Congress that voluntary prayers before athletic contests are appropriate and even beneficial. This type of prayer is not an unconstitutional establishment of religion. Rather, it is an appropriate and constitutional exercise of our freedom of religion.

It is altogether appropriate before a hard-fought athletic contest to allow individuals involved to offer a prayer that acknowledges the presence of a supreme being, a reminder of the presence of a deity more powerful than the players on the field. Such a prayer can lead to better sportsmanship, fewer injuries, and could even uplift and inspire both prayers and spectators.

The offering of a prayer should not be feared. Those who do not wish to participate do not need to. However, we should not constrain the actions of those who do want to participate.

Voluntary, unofficial prayers before athletic contests were allowed and even encouraged for decades prior to a mid-1960s Supreme Court ruling by the most liberal court of this century. We are overdue in again recognizing the rights of individuals to offer prayers that can do many people much good.

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

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, as the principal Democratic author of House Concurrent Resolution 199, I join the gentleman from Texas (Mr. BONILLA) in expressing my strong support on this measure, which simply calls on the Supreme Court to rule on public prayer at events such as school football games.

Our forefathers included the establishment clause in the first amendment to the Constitution for a reason. They had been subject to religious persecution, and wanted to make this country a place where Americans of every religion and denomination could practice their faith freely, or not practice a faith at all if they so chose. For those of us who believe in a God who grants free will to his creation, this constitutional approach not only makes for good government, it makes for good theology, as well.

Still, a recognition of God and our country's need for divine guidance has been part of this Nation's fabric from the very start. Our currency reflects that, our pledge of allegiance acknowledges it, our Congress honors the tradition of opening prayers, and a respect for God is woven throughout our government's history and practices.

It is in that spirit that I find prayer at football games both positive and constitutional. I would point out that many of the people who would prohibit such prayer also openly advocate for going still further and want to prohibit prayers in Congress, acknowledgment of God in our pledge of allegiance, et cetera.

Finding a balance between conflicting rights and responsibilities, as well as a balance between the rights of society versus the rights of an individual, has been the challenge of our democracy from its beginning. The balance is never achieved once and for all, but rather, requires constant adjustments when one side of the scales becomes imbalanced and in need of countervailing weight.

Recently a newspaper published in my district, the Graham Leader, addressed this very important point, which I share with my colleagues now: ''Although school prayer is often cloaked in separation rhetoric, the real issue lies in the definition of individual and group rights. Whose rights should take precedence? In this case, should those who want to pray or hear a prayer'' before a game ''have that right? Or should those who prefer no prayer have the right to stop it? Whose rights are more important?. . .''

''Democracy centers on the ability to balance individual freedom with the common good. Let's not forget that cooperation sometimes means compromise. We relinquish some rights, and we must endure some offensiveness so others may be granted some rights.''

''What the Federal courts and the American Civil Liberties Union seems to have forgotten is that no one group should bear the brunt in each case. Unfortunately, Christians have.''

I urge my colleagues to support this measure, which simply urges the Supreme Court to act on this currently conflicting issue, and expresses the sense of Congress that student-led prayers at school sporting events are an exercise of our constitutionally-guaranteed freedoms of speech and religion.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong support of House Resolution 199, and I commend my colleague, the gentleman from Texas, for bringing forth this important resolution.

I feel strongly about the right to pray in public, and believe that prayer at public school sporting events is in fact constitutional.

Mr. Speaker, we are truly fortunate to be Americans. The Founders of this great country worked to ensure each citizen's right to life, liberty, and the pursuit of happiness. Our Nation's military has fought and sacrificed to protect and preserve these rights.

America was built upon Judeo-Christian values. Yet this foundation of our culture is so often ignored in today's society, and even frowned upon. Citizens throughout the country are being denied one of the most basic, fundamental rights we have fought so hard to protect, the right to freely express one's religious beliefs. Children have been barred from bowing their heads in private prayers and writing their religious beliefs in school papers, and even from bringing the Bible to school.

Freedom of religion is one of the most protected rights guaranteed to us under the Constitution. There are far too many incidents of students and student athletes being prevented from expression of their religious beliefs.

In Santa Fe, Texas, a U.S. Court of Appeals ruling has forced student athletes to replace their former pre-game invocations with the observance of nonsectarian moments of silence. Just recently, Mr. Speaker, while I was watching an NFL football game, a player was seriously ill. Out of deep concern about their teammate, the members of that team knelt on the football field in front of the national TV audience to pray that he be protected from the injury.

To my knowledge, there was no objection to this practice, so I ask, Mr. Speaker, why are student athletes prohibited from expressing their faith on the field? I feel that this is a tragedy. We must stand up for our students' rights to freely observe their religious beliefs.

In closing, Mr. Speaker, I want to quote Jeff Jacoby, a columnist for the Boston Globe, who brilliantly conveys the belief of the Founding Fathers on freedom on religion.

''Religion can't survive in the absence of freedom, but freedom without religion is dangerous and unstable.''

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this resolution is in direct conflict with a long line of Supreme Court decisions. For example, in 1962 in the Engel decision, the Supreme Court warned that one of the greatest dangers to the freedom of the individual to worship in his own way lies in the government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services.

In the Jager decision in 1989, the Supreme Court refused to review a case that specifically held that prayers at public football games violated the establishment clause of the Constitution, even though student clubs designated the individuals who gave the prayers.

In 1997, a Federal court ruled that a moment of silence could be observed before games, but this year, 1999, another circuit court held specifically that prayers before football games were unconstitutional.

The really disturbing aspect of this resolution is not whether we agree with that long line of court decisions, but the fact that we are considering the issue in a political forum.

In the Barnett case in 1943, the court wrote that ''The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, and to establish them as legal principles to be applied by the courts.'' One's right to life, liberty, and property, to free speech, to a free press, freedom of worship and assembly, and other fundamental rights cannot be submitted to a vote. They depend on the outcome of no elections.

Yesterday, Mr. Speaker, in the city of Richmond, Virginia, an elementary school was named in honor of former Governor of Virginia Linwood Holton. The program said, Mr. Speaker, that ''Linwood Holton was elected Governor of Virginia in 1969—the State's first Republican Governor since 1886. Holton's most enduring legacy is his embrace of racial integration. He supported court-ordered busing to achieve racial balance in schools. While he was governor, he escorted one of his children to attend a predominantly black school. That act, captured on film, displayed a message of social justice to Virginians.''

Mr. Speaker, rather than promote a politically popular strategy of massive resistance, Governor Holton supported the Supreme Court ruling. So when he went to the schoolhouse door, he went not to display interposition and nullification, but to display a message of social justice.

Mr. Speaker, this resolution is wrong because it subjects the complicated issue of religious freedom to the vicissitudes of political controversy, and therefore, I urge my colleagues to reject it.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

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

Mr. TRAFICANT. Mr. Speaker, I think the Supreme Court is part of the problem here, not the solution.

I keep hearing this First Amendment mumbo-jumbo. I would like to read it: ''Congress shall make no law respecting an establishment of religion'', and then the First Amendment says, immediately, ''Or prohibiting the free exercise thereof.''

The Founders are rolling over in their graves. They did intended to separate church and State, but they never intended to separate God and the American people. This is absolutely ridiculous. The Supreme Court in my opinion is prohibiting in America the free exercise of religion.

It is on our currency. Look behind the gentleman from Illinois (Mr. LAHOOD): ''In God we trust.'' Do we strike that from the Chamber? Do we?

A Nation without God is a Nation without order. An America that restricts God gives license to the devil. We are nitpicking over something that nine Supreme Court members should have enough anatomy to ratify, the free exercise of religion. If a ballplayer wants to say a prayer, I want someone to show me how it is unconstitutional.

They need a shrink over there. I support the resolution, and I think Congress better start drafting laws, because the precedents of the courts are what are running America, and the Founders did not want that, either.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, it is my belief that prayer is nothing less than heartfelt communication with our Creator. I believe in the power of prayer and the reverence for prayer and the sanctity of prayer. That is why I believe any debate on prayer and religious freedom deserves more than a 40-minute debate on a suspension calendar after no committee hearings and with so few Members of this House even present.

Mr. Speaker, I have great respect for my colleagues, the gentleman from Texas (Mr. BONILLA) and the gentleman from Texas (Mr. STENHOLM), and their genuine concerns, but it is the process of handling this resolution, however, on which I wish to comment.

In my opinion, the subject matter of prayer and religious freedom deserves a full and open debate and Committee on the Judiciary hearings and on this floor. To do any less potentially undermines the importance of the first freedom guaranteed in the first 16 words of the Bill of Rights, the freedom of religion.

Let us also recognize that the Constitution, in Article III, makes it clear that the Supreme Court, not the Congress, has the power to determine what is or is not constitutional.

□ 1645

Several weeks ago, the House leadership supported a resolution that said it was, quote, the necessary duty, end quote, of Americans to pray. That resolution, like this one, was on a suspension calendar and had no committee hearings.

I am therefore compelled to question when the leadership of this House will start treating profound issues such as prayer and such as religious freedom and church-State relations with the reverence that our Founding Fathers exhibited in writing our Bill of Rights and our First Amendment.

I would plead with the House leadership today to stop dealing with the principles of the religious establishment and free exercise clauses of the First Amendment with the same quick process and time limits reserved for the naming of Federal office buildings. The Constitution, the Bill of Rights and the high principles enumerated therein deserve far more than a superficial review.

Resolutions and legislation on prayer and religious freedom should always undergo carefully considered hearings and debates of principle and conscience, not hastily organized mini-debates that deny most House Members even a chance to speak.

Mr. Speaker, as a citizen I would hope the Supreme Court would clarify for school districts whether and under what conditions public prayers and invocations at school sporting events are allowed under the First Amendment. It is not right, in my opinion, for schools and communities to be divided by possibly conflicting lower court decisions. I would hope the Supreme Court would expeditiously review any such cases.

Mr. Speaker, to all of us in Congress, however, I would say we have an obligation in the future to review any question affecting the sacred issues of prayer and religious freedom with the careful, thorough and reverent consideration they deserve.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Speaker, why are we considering this legislation today? How is the offering of prayer at a football game unconstitutional? The root of this debate can be traced to 1962 when the Supreme Court opined in Engel versus Vitale that, quote, State-sponsored, end quote, prayer was unconstitutional. Why? Because the Supreme Court said that the First Amendment had erected a wall of separation between church and State and that that wall had been applied to the individual States by way of the Fourteenth Amendment.

Where did that logic come from?

It was a line of reasoning that was expounded by Justice Hugo Black in 1947 when he stated, quote, my study of the historical events that culminated in the Fourteenth Amendment and the expression of those who sponsored and favored, as well as those who opposed its submission and passage, persuades me that the provision of the amendment's first section were intended to make the Bill of Rights applicable to the States, end quote.

Today, Mr. Speaker, we do not have to rehash all of Justice Black's research. Fortunately, all that is necessary today is to ask a simple question: What was so apparent in the justice's research that escaped the knowledge of people who actually voted on the Fourteenth Amendment itself?

The Blaine amendment was an amendment to the Constitution that was introduced in 1875 by Representative James Blaine of Maine and it would have become the Sixteenth Amendment to the Constitution. It was introduced and it stated in relevant part, quote, no State shall make any law respecting an establishment of religion or prohibiting the free exercise thereof.

Mr. Speaker, if the Congress at that time believed that the Fourteenth Amendment applied the Bill of Rights to the States, why was this amendment even brought up for consideration? The question is, would it not have been the main reason for dismissing the amendment the fact that it was unnecessary, given the fact that the Blaine amendment was introduced 8 years after the ratification of the Fourteenth Amendment? In fact, in the 44th Congress that considered the Blaine amendment, 15 Senators had been Members of the 39th Congress that adopted the Fourteenth Amendment and 12 others had participated in the ratification or rejection of this amendment by the State legislatures.

Likewise, 50 Members of the House of Representatives had similar backgrounds. In fact, Mr. Blaine voted for the Fourteenth Amendment.

Mr. Speaker, the fact is that the Fourteenth Amendment does not apply the Bill of Rights to the States and if we do not want any more thorough exercise of this we can simply go to the Encyclopedia of the American Constitution that says this: Additionally, the first clause of the proposed amendment provided that no State shall make any laws respecting an establishment of religion or prohibiting the free exercise thereof.

This is an indication, says the Encyclopedia of the U.S. Constitution, that Congress did not believe in 1876 that the Fourteenth Amendment, ratified in

1868, incorporated the religion clauses of the First Amendment.

Mr. Speaker, if I may, I would like to say amen and ask for consideration and approval of the resolution.

Mr. CONYERS. Mr. Speaker, I yield myself 30 seconds, because the gentleman from Indiana (Mr. HOSTETTLER), I thought I misunderstood him at first when he said the Fourteenth Amendment did not apply to the States but he repeated it at least one more time so that I do not have any doubt of that now. Now that that is confirmed, I suppose we can move on back to the debate.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I would like to thank my colleague, the gentleman from Michigan (Mr. CONYERS), for allowing me to speak.

Mr. Speaker, I am a cosponsor of the resolution. Coming from Texas, I noticed a lot of the cosponsors of the resolution are from Texas. There are a lot of things we hold sacred in Texas and one of them is high school football. One can go to any Friday night game or Saturday night game and it is important to the community, and growing up in Texas and having an opportunity to play high school football I know how important that event is for the community.

Since then, I have attended football games both as a State legislator and Member of Congress and participating in the pre-game ceremonies, including giving the prayer as a Member of Congress at some of our high schools. This last February, the Fifth Circuit Court of Appeals in Doe versus Santa Fe Independent School District caused a great deal of concern and ultimately with this coming school year I talked with some of our superintendents in my own district to see how they were dealing with it.

This ruling, while affirming previous court decisions that upheld student-led nonsectarian, nonproselytizing prayer at solemn events like school graduation ceremonies, also stated that invocations before sporting events like football games were not constitutional even if they met that standard.

Mr. Speaker, the courts have been clear on the issue that the guidelines that had previously been issued by the Fifth Circuit Court in Jones versus Clear Creek Independent School District were being followed, so we have a problem. The Supreme Court needs to rule and provide that guidance not only in Texas but hopefully the whole Fifth Circuit and our whole country.

If this sort of activity is constitutional before a graduation ceremony, it should be constitutional. If we in Congress can start our business day as we do, then why would it not be constitutional to pray for the safety of our young men and women before they participate in some sporting event?

I am a firm believer in the First Amendment and I oppose actions that would violate the establishment clause. I ask, though, where is this violation? How does a prayer before a football game act to establish a religion? We cannot go back to the 1950s because it was wrong where children all recited the Lord's Prayer and we know that as a Methodist and Presbyterians, even Catholics, we have a different Lord's Prayer but I do think we can invoke the wish and the hope and the prayer for the safety of the participants.

Mr. SMITH of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Speaker, I thank the gentleman from Texas (Mr. SMITH) for yielding me additional time.

Just simplifying, the gentleman was unsure of the meaning of the Fourteenth Amendment, the Congress that adopted it, in that section 5 they said the Congress shall have power to enforce by appropriate legislation the provisions of this article. Therefore, they did not believe the Bill of Rights was incorporated into the Fourteenth Amendment and so they gave themselves the capability to, by statute, enforce the Fourteenth Amendment and grant all of us the liberties we so greatly enjoy at this time.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Speaker, it is kind of ironic we have this religious debate from time to time here, and when we stand in the House well the only lawgiver facing us is Moses, whose head is turned right towards the Speaker; and above the Speaker's head it says, ''In God we trust.''

It is clear what Congress intended. We open in the morning with a prayer, and clearly Congress may need prayer more than the schools but I think it is a double standard for us to say these things cannot go on in schools but they can go on here in Congress.

Prayer is not for victory. Hopefully everybody understands that in these football games it is not for victory; unless maybe with the exception of Notre Dame, God does not take sides in football games. In general, however, what is disappointing to me is that apparently if one uses our Lord and Saviour's name Jesus Christ in vain it is allowed, but if one uses it in a biblical sense it is not. If I would refer to God damning people because of their behavior, that would be wrong but if one uses it in blasphemy, that is free speech.

Free speech is a one-directional thing. How can it possibly hurt the young students at a football game to acknowledge that there is a Creator; that there is someone higher than them; that hatred is wrong; that violence in an extreme way is wrong? How can the humility that comes from the Bible be wrong at any moment, whether it is a football game or in school?

We are in danger of putting us, the almighty ''I,'' the all-powerful me, in such a preeminent position that we will not even allow kids who voluntarily, in a voluntary activity, after school hours, can pray together. It is a sad day if this amendment does not pass.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, I rise today in support of H. Con. Res. 199, which expresses the sense of Congress that prayers and invocations at public school events are constitutional on the First Amendment and that the Supreme Court should uphold the constitutionality of such activities.

Mr. Speaker, it is most ironic that while an increasing number of violent crimes have occurred in our Nation's schools in recent months and even recent years, some Federal courts have ruled to restrict the very expression of faith which can play such a significant role in providing desperately needed moral guidance to our youth. Under the proper guidance of coaches and administrators, team and individual sports can make a significant, positive impact on the character of students and student athletes in their most formative years.

A strong religious message, coupled with good sportsmanship, instilled by adult role models, can make a positive, long-term influence on our Nation's young people.

I join my colleagues who are opposed to these Federal court decisions that would ban organized prayer from sporting events. Student athletes have a clear constitutional right to exercise their religious beliefs, particularly during school and extracurricular activities. I do not believe that students in our country should have to check their religion and their beliefs at the school door.

Our Founding Fathers believed that prayer and even studying the Bible were activities that should be encouraged among our youth rather than suppressed, even in our schools. Our Constitution grants freedom of, not freedom from, religion. Because of these rulings in the past, I am proud to join the gentleman from Texas in support of this resolution to affirm the importance of prayer at sporting events at a pivotal time in the life of our Nation's young people. There can be no compromise in the defense of our commitment to the very principles that have made this Nation, the United States of America, the greatest nation on the face of the Earth.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, comments have been made about the ability of athletes or students to pray voluntarily. There is no prohibition against that. In fact, in 1995, a circuit court ruled that students, quote, are not enjoined from praying either individually or in groups. Students may voluntarily pray together provided such prayer is

not done with school participation or supervision.

We are not talking about a student's ability to pray. We are talking about the ability of that student to require everyone else to participate.

□ 1700

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I am one of the cosponsors of this resolution, and I rise in strong support of it. I want to thank the gentleman from Texas (Mr. BONILLA) for bringing it to the floor.

Most of the opposition that has been expressed on this this afternoon has been more on the process. We have had the complaints that there have not been adequate hearings in the Committee on the Judiciary, et cetera. That is usually a leading indication that they really cannot argue the policy.

All one has to do is read the Constitution where it talks about freedom of expression and freedom of speech, freedom of religion. I do not believe anybody in everyday America thinks that a public prayer before a football game or some sort of a public event is establishing an official religion.

If one goes back to our Founding Fathers' time and one looks at why they put in the prohibition against establishment of an official religion, it was because, in many of our States, the Anglican church was the official church. If one goes even down to the great State of Texas before it became a State, the Catholic church was the official church of Mexico, one had to convert to Catholicism to come into Texas in the 1820s.

Saying a public prayer before a football game is not the establishment of a religion. It is the acknowledgment that there is a supreme being and that those in attendance and those in participation wish the protection or the blessing of the supreme being as they engage in the contest.

As a United States Congressman, I have given public prayers before football games in Texas. As a football player way back in the dark ages of the 1960s, I have given public prayers during football games. I strongly hope that we will pass this resolution by the two-thirds necessary to suspend the rules.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think this is a debate that bears much more attention than we are able to give it, primarily because it involves children, because it involves guiding children. But it also involves the Constitution.

Mr. Speaker, I am the mother of an eighth grade football player. Football is an intrinsic part of the culture of Texas, as it is in many, many places, as sports are an intrinsic part of America.

I would simply say to my colleagues that we set, I think, not the right tone if we would suggest to those students that they do not have the freedom to exercise their beliefs and pray. But I do think it is equally important for us to protect the isolated or the single person of a different faith.

That is why I bring some concern to this resolution, not because there is not good intention, but because there are the opportunities to have a story, such as Plaintiff Jane Doe, II, who was attending the seventh grade Texas history class, and her teacher handed out advertising regarding a Baptist religious revival, some of which I have attended. In fact, tomorrow I will be hosting a number of religious liberty activists from the 7th Day Adventist Church.

But Jane Doe was not a Baptist, and she was inquired about her religious affiliation. It was noted that she was from the Church of Jesus Christ of the Latter Day Saints, Mormons. Her teacher launched into a diatribe about the non-Christian cult-like nature of Mormonism and its general evils. In fact, in the Duncanville case, the plaintiff's history teacher referred to her as a little atheist.

I would simply say, Mr. Speaker, that this resolution emphasizes too much that we are separated rather than we are welcoming the diversity of religion. It establishes one faith over another. It establishes a religion.

What we are trying to do, Mr. Speaker, is to make sure that this country is free for all religions. I want the football team to pray. I want the Capitol to pray. I want those in the stadium to pray, and they have every right to pray. The idea, of course, is that they cannot force upon others a prayer that others would not want to have.

I applaud those young people who are praying, and I think we, as adults, should create the atmosphere for them to pray. But I do not think we should instruct the Supreme Court to rule against the Constitution where it says there is a separation of church and State.

Mr. CONYERS. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, there has been a discussion here that has been premised upon some things that we probably are not as sure about because we have not had any hearings. I am surprised to hear one Member say that this is a very important matter; but, yet, it skips over the subcommittee and committee of jurisdiction. We rush it to the floor, and then we end up with Members complaining to me repeatedly that the 14th amendment does not apply to the States. Now, we prepared a lot of material to try to point that out to him, that this has been pretty well settled in constitutional law.

But then I said, why? Why do we need to do this? We are not talking about the right of students not to pray. It is how it is done. Students can pray at games. They do all the time. They do it in Texas even. So this is not an issue about whether one has the right to pray or not. It is under what circumstances can prayer be allowed.

Now, Mr. Speaker, pretty conservative members of the court have found that the Constitution forbids school-sponsored prayers, not out of a hostility to religion, but to protect the religious freedom of each student. In other words, one cannot use the State and the school as a State to promote any religion over the other. The entire premise of the Bill of Rights is that individual liberty must be safeguarded and must sometimes trump the desires even of the majority.

So it is in that spirit that I close the debate on this side by pointing out we are not against students praying, athletes praying, prayer at games. That is not the issue. The issue is under what circumstance can State-supported institutions use their facilities to promote any one particular prayer.

I urge that Members reject the measure that is now before the House.

Mr. SMITH of Texas. Mr. Speaker, how much time remains on this side?

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. SMITH) has 4 minutes remaining.

Mr. SMITH of Texas. Mr. Speaker, I yield the balance of the time to the gentleman from Texas (Mr. BONILLA), who is the sponsor of the resolution, for purposes of closing.

Mr. BONILLA. Mr. Speaker, once again, I thank the gentleman from Texas (Mr. SMITH) for yielding this time.

Mr. Speaker, I would like to start out by thanking the gentleman from Texas (Mr. STENHOLM), former high school football star, for joining me in this effort as the lead cosponsor. I truly appreciate the work he has put in on this bill, and we are hopeful that we will prevail.

Mr. Speaker, there are parents out there in our communities who are crying out for help and crying out for support. A few weeks ago, I was in the fall parade in Devine, Texas, which is just a few miles south of San Antonio. A young man walked up to me, and told me he was a banker, an executive at the local bank. He did not approach me to talk about banking regulations or the banking bill now pending.

He wanted to talk about prayer at high school football games, because in Medina County, for generations, they have traditionally opened games with voluntarily, nonmandated prayers. They have always opened the ceremonies at night by having a prayer.

He could not understand how we have gotten to the point in this country where they are suddenly under a threat of legal action to stop them from doing this. He was just wondering what our country is coming to when we cannot have voluntary nondenominational, nonmandated prayer at our high schools if we so desire.

I told him that day that I would introduce this resolution, and he was just delighted to hear that here in Congress there were many of us who were already concerned about this and we were going to at least try to take a stand in supporting these parents.

During this debate, we have talked about how every day we in Congress open our sessions with a prayer. We have already talked about how we have the words ''In God We Trust'' above the Speaker's podium. We have talked about how the Supreme Court opens each session with a prayer. So we wonder why the Fifth Court of Appeals would rule that voluntary community prayers would be prohibited and under threat of legal action.

These prayers are not government-mandated events. High school football games are community events. They are made up of, not only parents, teachers, and students, but sponsors and families from around the community. Some of them do not even have students in school, but like to come out and enjoy the physical activities of a great tradition that we have in some parts of our country.

These parents, teachers, and students are not asking us to pass a new law here in Congress. This is a sense of the Congress that simply allows us to go home and tell our constituents that we took a stand on this issue that is very important to them.

So let us not delay any longer. Let us take a stand. Let us let the folks back home know that we are on their side in this very important issue.

Mr. SANDLIN. Mr. Speaker, one of our most fundamental rights is under fire in the court system. The Court of Appeals for the Fifth Circuit, which presides over Texas, Louisiana and Mississippi, recently told our students they cannot pray before a football game or any other sporting event sponsored by their school. This decision is an affront to the Constitution and sends the wrong message to our children.

I am an original cosponsor of House Concurrent Resolution 199, expressing the sense of the Congress that prayers and invocations at public school sporting events contribute to the moral foundation of our nation and urging the Supreme Court to uphold their constitutionality. I have consistently voted in favor of prayer in schools because it is wrong for the government to tell us when and where we can pray. The First Amendment states, ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . .''

The United States Supreme Court has interpreted our constitution to all at least some prayer and religious expression in public schools. We have seen, however, that courts and school district officials are having great difficulty in drawing the distinctions between what is allowed and what is prohibited. With respect to our public school system, the government must be neutral on the issue of religion in the pubic schools, serving neither as its agent nor as its adversary. Therefore, constitutionally, a public school should allow a student to pray in school, but should not mandate organized prayer.

In the decision handed down by the Fifth Circuit, this principle of neutrality has been lost. Clearly, a court that prohibits prayers specifically at sporting events is not practicing neutrality towards religion. It is discrimination of one kind of speech—religious speech. Our courts should not ban this form or religious expression or attempt to regulate its content.

Mr. Speaker, I believe faith is essential in establishing one's moral and ethical character. I am sure the Members of this House agree because we say a prayer every day this House is in session. If Members of Congress can say a prayer at the beginning of each legislative day, then students should be allowed to say a prayer before a school sporting event. After all, our children do not check their religious beliefs at the schoolhouse door. We cannot allow a strained, out of touch court decision eclipse their rights.

I urge my colleagues to join me in supporting House Concurrent Resolution 199. Let's give our children the same rights we exercise here in the Congress. Let's protect the constitutional freedoms they are learning about in class, but currently unable to enjoy at the school football game.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res 199.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3064) ''An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes.''

SENSE OF CONGRESS THAT THE PRESIDENT SHOULD RECOMMEND ACTIONS FOR RELIEVING VICTIMS OF HURRICANE FLOYD

Mrs. FOWLER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 349) expressing the sense of the House of Representatives that the President should immediately transmit to Congress the President's recommendations for emergency response actions, including appropriate offsets, to provide relief and assistance to the victims of Hurricane Floyd.

The Clerk read as follows:

H. RES. 349

Resolved,

SECTION 1. FINDINGS.

The House of Representatives finds the following:

(1) Hurricane Floyd made landfall on the coast of North Carolina on September 15, 1999, as a category two hurricane.

(2) In the State of North Carolina alone, the hurricane caused the deaths of at least 50 individuals, damage to more than 40,000 homes, and billions of dollars in infrastructure damage and agricultural losses.

(3) Citizens of the States of Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, and Connecticut have registered for Federal disaster relief aid as a result of Hurricane Floyd.

(4) More than 6 weeks after this disaster, the citizens of these States continue to await critical assistance from the Federal government to rebuild their homes, businesses, and lives.

SEC. 2. SENSE OF THE HOUSE OF REPRESENTATIVES.

It is the sense of the House of Representatives that the President should immediately transmit to Congress the President's recommendations for emergency response actions, including appropriate offsets, to provide relief and assistance to the victims of Hurricane Floyd.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Mrs. FOWLER) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Mrs. FOWLER).

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

Mr. Speaker, this bill notes that the President should immediately transmit to Congress the President's recommendations for emergency response actions, including appropriate offsets, to provide relief and assistance to the victims of Hurricane Floyd.

On September the 14th, 1999, the State of Florida was staring Hurricane Floyd right in the face. Floyd was at that time packing winds of over 140 miles an hour. It was almost three times the size of Hurricane Andrew, which devastated southern Florida in 1992.

We should be thankful that Hurricane Floyd weakened and caused much less damage than initially seemed likely. But that is of little solace, however, to the victims of the heavy rains that Floyd delivered all along the East Coast.

In Florida alone, thousands of residents have registered for disaster assistance. They are among the tens of thousands of flood victims from Florida to Connecticut who need our assistance and need it quickly. However, before Congress can make certain that enough assistance is available, we need the President's estimate of how much additional money is required to meet the needs of these suffering individuals.

Unfortunately, the administration does not seem to think that this is an urgent matter. This resolution should change his mind. Now, if the President does not intend to propose any additional assistance because he believes no further aid is necessary, then we need to hear that. But I can tell my colleagues, based on what I know, we will need additional aid; and I would hope the executive branch, including

the Federal Emergency Management Agency, can help us figure out an appropriate amount of assistance so that we can get the ball rolling.

The flooding caused by Floyd has victimized too many people. Let us not victimize them again. I urge support for this resolution.

Mr. Speaker, I yield the balance of my time to the gentleman from North Carolina (Mr. COBLE); and pending that, I ask unanimous consent that the gentleman from North Carolina be permitted to control this time.

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

There was no objection.

Mr. TRAFICANT. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from North Carolina (Mrs. CLAYTON).

Mrs. CLAYTON. Mr. Speaker, Hurricane Floyd was the worst natural disaster in the history of our State, North Carolina. Six weeks after the flood waters reached the roof tops of almost 50,000 homes, destroying more than 6,500 homes, an excess of 72,000 North Carolina citizens have now applied to FEMA for help.

□ 1715

That is why I am a cosponsor of this resolution. We need the President to step up to the plate, and he has. We need the Congress to step up to the plate, and we have. But existing FEMA and Department of Agriculture resources are not enough. More is needed if North Carolina is to recover and then rebuild.

While I support this resolution and commend the gentleman from North Carolina (Mr. TAYLOR) for introducing it, I want to disassociate myself with some parts of it.

The resolution calls for the findings of offsets to fund the immediate need of hurricane victims. Such a requirement is inconsistent with the focus of current discussion about providing help. Both Congress and the President must work together, cooperate and pass emergency supplemental legislation. Mr. Speaker, we all know that emergency legislation does not require offsets. Moreover, emergency legislation does not require the President to act, but the Congress can act.

The people of North Carolina face major modifications in life as they have known it. Families have been uprooted. Farmers have been disrupted. Homeowners and business owners have been displaced. They need our help now, not in January. So we need the President and the Congress to work together to make sure that we pass emergency legislation for the people of North Carolina and other States affected by the recent disasters.

Let us take that step together with the administration. Let us do it without offsets. We do not need offsets. So let us pass this resolution to remind us that this is emergency funding that we need. And this really is not a matter of politics. This really is a matter of responding to an emergency.

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

I rise today, Mr. Speaker, in support of this resolution. Between September 14 and 17 of this year, Hurricane Floyd ravaged the East Coast, depositing 18 inches of rain on sections of North Carolina, which had not yet begun to recover from the damages brought by Hurricane Dennis only 2 weeks earlier.

It is my understanding, Mr. Speaker, that over 72,000 North Carolinians have registered for Federal disaster assistance. Yet 6 weeks after the disaster, the 11 States that were declared disaster areas continue to await Federal aid.

The Congress is not equipped nor tasked with the responsibility of assessing and estimating natural disasters. This is the job of the executive branch in conjunction with the States. As such, we depend on its expertise when trying to respond to tragedies of this nature, and that is what has brought us here today. President Clinton visited North Carolina almost 5 weeks ago and promised our folks there that, We would help them every step of the way. Well, Mr. Speaker, our folks are still waiting for this help.

The resolution before us today requests that the President immediately transmit to Congress the President's recommendations for emergency response actions, including appropriate offsets, to provide relief and assistance to the victims of Hurricane Floyd. I certainly hope this request does not fall upon deaf ears, because the individuals victimized by this disaster are desperately waiting for our help.

Now, on the issue of offsets, some folks up here, Mr. Speaker, call me a Johnny-One-Note when it comes to the subject of imprudent spending. But when I look at the natural disasters that have plagued our Nation in the last few years, I become frustrated that we have such a difficult time helping our own folks but can find billions of dollars to send overseas for matters such as Kosovo.

Now, I think Kosovo spending is appropriate to mention regarding this resolution, because funds which have already been spent for the Kosovo effort would likely address the needs of the thousands of suffering eastern North Carolinians. But, unfortunately, that fiscal horse is out of the barn. In the future, I hope that we in the Congress, and President Clinton, will carefully and deliberately approach involvement in foreign conflicts prior to spending American taxpayer monies imprudently and recklessly.

As many people know, I was an ardent opponent of our involvement in Kosovo from the very beginning. And this operation, which has cost $6.5 billion, not including what we spent for operations in Bosnia and Haiti, would have adequately addressed the needs of the people of North Carolina, and most of those in other disaster-designated areas along the Eastern Seaboard.

If our government, Mr. Speaker, and I hate to be this critical, but if our government would behave like most American families and save for a rainy day, we would not be standing here 6 weeks after the disasters have wiped out eastern North Carolina begging the President to send us his request. But here we are. And I hope and pray, Mr. Speaker, that before the next 6 weeks pass, the Clinton administration will send us a package so that we can evaluate it and assist our citizens who so desperately need our help.

Finally, Mr. Speaker, I do not want to let this opportunity pass without expressing thanks to the United States Coast Guard for the outstanding job they did. Right now these men and women are working day and night on search and recovery operations resulting from the downing of Egypt Air Flight 990. During Hurricane Floyd, Mr. Speaker, Coast Guard men and women risked their lives to rescue people across eastern North Carolina. And not unlike other Members in this body, I believe this great service that they provide to our country is often overlooked, and I want to recognize that to that end.

I hope, Mr. Speaker, that this Hurricane Floyd problem can be resolved quickly and appropriately.

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

Mr. TRAFICANT. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, let me first express gratitude to the administration and to the Congress for the actions already taken to relieve the suffering of the victims of Hurricane Floyd and to help rebuild North Carolina and other affected States.

Our people are getting help, and I want to specifically thank the gentleman from New York (Mr. WALSH) and the gentleman from West Virginia (Mr. MOLLOHAN) for their work to replenish FEMA's disaster account in the VA-HUD appropriations bill to make sure emergency aid will not be delayed. I want to thank the gentleman from New Mexico (Mr. SKEEN), the gentlewoman from Ohio (Ms. KAPTUR), and Secretary Glickman for their work to ensure that our farm families get a fair share of the limited disaster assistance in the agriculture appropriations bill. And we are deeply grateful for the dedication FEMA administrator James Lee Witt has demonstrated in service to our people.

The problem is that the Agriculture Department's and FEMA's existing programs are not sufficient to the present need. Not everyone is being helped, and not everyone is getting the level of help that they need.

This Congress has no business adjourning without finishing the job of addressing the immediate needs created by this disaster, and I want to do all I can to make sure the Federal Government does its part, as we have with other disasters in the past.

We in Congress need to work in cooperation with the administration to help the victims of Hurricane Floyd get back on their feet, rebuild, and recover from their losses. In doing so, we can restore their faith in the future.

The administration and Governor Jim Hunt have been working together to meet North Carolina's needs within existing programs to the maximum extent possible. In the process, they are reaching hard conclusions about what additional funding and authority will be necessary to meet the challenge in North Carolina and other States. I have strongly encouraged the President to expedite this process, for North Carolina and the other States, and to recommend to Congress the legislation necessary to respond. I am an optimist. I believe the administration and Congress will in fact cooperate and will in fact finish this job.

I must say, though, that I have reservations that this resolution seems to create a new orthodoxy in the House that no supplemental or emergency appropriation is in order unless requested by the President. That simply is not so.

In May, in fact, the House passed a supplemental appropriations bill that included $4.75 billion for the Department of Defense that the President did not request. We approved $332 million in agricultural funds that included livestock disaster assistance, housing repair, and flood operations, all items similar to what we are seeking for Floyd victims, and not one dime of that was asked for by the President. We included $1.3 billion in FEMA aid, including funds for the unmet need accounts, although the President requested no unmet needs program. The FEMA disaster relief item included $528 million more than the President had asked for. In total, the Congress approved more than $5 billion in excess of the administration's request. And by the same token, the Congress declined to appropriate many items that the President did recommend.

My point, Mr. Speaker, is simple. Congress is not bound by the President's recommendations; neither is Congress prohibited from acting on a need prior to a presidential request. The House Committee on Appropriations did act in late September, at my request, to approve $508 million that the administration had not yet requested for Hurricane Floyd relief for farmers in the Labor-HHS-Education appropriations bill, and OMB subsequently endorsed that proposal. It is still unclear to me why the congressional leadership chose to strip those funds from that bill, which was cleared for the President this morning by the other body.

So I hope this resolution is not intended to create a new requirement of a presidential request for disaster funding. This is a straitjacket the House has appropriately avoided in the past. It is one we should avoid with the Hurricane Floyd disaster and disasters in the future.

Mr. Speaker, I choose to interpret this resolution as simply affirming that Congress and the President need to work together to respond to the suffering of the victims of Hurricane Floyd and to help rebuild the States that suffered Floyd's wrath. I hope that by passing this resolution we can get past any differences and move forward together to finish the job of assisting the victims of this terrible disaster.

Mr. COBLE. Mr. Speaker, may I ask of the Chair the amount of time I have remaining.

The SPEAKER pro tempore (Mr. LAHOOD). Both sides have 13½ minutes remaining.

Mr. COBLE. Mr. Speaker, I yield 1½ minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman for yielding me this time; and, Mr. Speaker, I want to point out that, as has already been indicated, there has been a terrible toll from Florida to North Carolina to New Jersey and beyond. Families have suffered dreadfully, even those beyond the television camera lenses.

Mr. Speaker, I want to say in strong support of this resolution that Hurricane Floyd wreaked havoc upon the Atlantic Seaboard with a path of destruction that included 11 States, yet 6 weeks since the disaster we are still awaiting Federal aid. That has already been outlined.

I want to stress here and bring to the attention not only of the House but to the President that I have introduced, along with the gentlewoman from North Carolina (Mrs. CLAYTON) and many other Members, legislation to provide FEMA grants to small businesses and farms that have been affected by this disaster. It would be a one-time grant, but one that is absolutely essential now for those poor farmers and those poor small businessmen who have exceeded any loan possibilities.

I hope that this will be taken into consideration and it will be recognized that the President can come forward as soon as possible with a range of pieces of help that would include this one-time grant relief that the gentlewoman from North Carolina (Mrs. CLAYTON) and I have proposed.

Mr. Speaker, I rise today in strong support of H. Res. 349, expressing the sense of the House that the President immediately inform Congress of his plans to respond, with appropriate offsets, to the emergency created by Hurricane Floyd.

My Colleagues, as I rise in this House this afternoon, it is raining—and raining hard—once again in North Carolina. I want my colleagues to know how deeply we feel for the flood-ravaged people in eastern and central North Carolina. We must not diminish their suffering, nor the attention they so richly deserve.

But, Mr. Speaker, not all of Floyd's damage shared the spotlight of national attention. This storm took a terrible, hidden, toll in communities far from the television camera lens. From Florida to North Carolina to New Jersey and beyond!

All four of my counties in northern New Jersey suffered some damage as a result of Floyd. The worst damage was in Bergen County—in northeastern New Jersey. Rivers and streams overflowed their banks and submerged whole neighborhoods and business districts. Dams burst. Bridges washed out. Roads were damaged. Municipal buildings and police stations were inundated. The drinking water system was compromised. And the telephone infrastructure was paralyzed for several days due to flooding at a key switching facility in Rochelle Park.

Newspaper reports just this morning pin the public and private damage from Floyd at around $400 million in Bergen County alone.

Mr. Speaker, Hurricane Floyd wreaked havoc up and down the Atlantic seaboard leaving a path of destruction, death and despair. Eleven states have registered for federal disaster aid. But in the six weeks since the disaster, many still await federal aid.

It is obvious from damage assessments that much more aid than currently exists will be needed. The President must come together with Congress and respond to this unprecedented disaster in a fiscally responsible manner.

Mr. Speaker, small businesses and farms are the backbone of the economic life of many of our communities. Federal assistance only in the form of loans is available for these hard working families and many can not afford to take on the extra financial burden.

I also want to bring to attention of this House and the President that I have introduced legislation, along with Congresswoman CLAYTON and many other Members, to provide FEMA grants to small businesses and farms that have been affected by this disaster. It is our intent that this is a one-time grant for a one-time disaster. Our bill would:

Make FEMA grants available up to $20,000 to replace non-insured contents and inventory or repairs as a result of a disaster.

Grants would only be available to small business owners and farmers for emergency needs for a period of 90 days after the Presidents declares a natural disaster.

Small businesses and agricultural enterprises would only be allowed one grant and would not be eligible for grants for any subsequent disaster.

Any business accepting a grant must purchase and maintain flood insurance.

Any business accepting a grant can not use the grant to relocate outside of the community except for federally approved mitigation purposes.

Our bill will be an important component of the relief package for victims of Hurricane Floyd and I strongly urge the President to come forward as soon as possible with a responsible and broad-based response to the disaster that includes this grant relief caused by Hurricane Floyd.

Mr. TRAFICANT. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

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

□ 1730

Mr. ETHERIDGE. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today on behalf of thousands of North Carolinians that

were devastated by Hurricane Floyd and the floodwaters that followed. It is simply wrong that the lives of these victims have been caught up in this year-end game being played out over the budget.

The lesson here is clear: If they are going to have a disaster, have it early in the appropriations process or risk being thrown around like a hot potato.

I am going to support this resolution today because I believe the administration has a responsibility to come forward with recommendations for a relief package, and I have personally written the President and asked him to do so. But I cannot help but wonder if this resolution is just another rhetorical shot in the Republican leadership's war with the White House over the budget.

We all know we do not have to wait on the President to begin the process. The governor of North Carolina, working closely with FEMA Director James Lee Witt and other Federal agencies, has provided Congress a strong and critical disaster package. We ought to be using that package to move the process forward.

We do not have to wait for the President. We do not work for the President. We work for the people. I have looked into the eyes of people who have lost everything, Mr. Speaker. The wife who lost her husband, the farmer who lost his crop, the thousands of men, women and children who have lost every possession that they own simply do not have the time for the petty politics being played out here in Washington. They do not care whether it is the President, the Congress, or Santa Claus who brings them relief. They just know they need it and they need it now.

People who are wearing borrowed clothes, who are living in temporary trailers, who are out of work, who have lost their businesses, their possessions, and in some cases at least 50 of their loved ones, these people do not care who proposes, they do not care who disposes. All they care about is getting help that they need to get back on their feet.

I am going to support this resolution. This symbolic gesture is fine and good, but the victims of these disasters need more than symbols. They need money, and they need it now. We need to do more than talk about passing resolutions. We need to act. We need to work together, the President and Congress, to make the future a little brighter for the people of North Carolina and the other States who have lost so much.

I, for one, am committed to working with all of my colleagues, Democrats, Republicans and the administration, to craft and pass a disaster relief package that we can all be proud of.

Mr. COBLE. Mr. Speaker, I yield 1 minute to the gentlewoman from North Carolina (Mrs. MYRICK).

Mrs. MYRICK. Mr. Speaker, I rise in support of this resolution and requesting the President to get his request down here to Congress so we can act.

People in North Carolina are really hurting badly. We have heard this before, but I was down there the last couple of days going throughout the area and people are living in homes because they have nowhere else to go that are full of mold. They are starting to get bad respiratory infections. The farmers that are just totally devastated do not know which way to turn or where they are going to go to get help. This story goes on and on. It does not matter what county they are in.

I kept hearing the phrase, ''You never seem to have any trouble sending the money overseas to those foreign countries. Why in the world can't you seem to get some down here to help us?'' And that is kind of hard to explain.

So I, again, am here in support of this resolution and hope that we can move quickly on this, because people's lives are on hold. They are literally just waiting for some help.

Mr. TRAFICANT. Mr. Speaker, might I inquire about the balance of time?

The SPEAKER pro tempore (Mr. LAHOOD). Each side has 11 minutes remaining.

Mr. TRAFICANT. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Ohio (Ms. KAPTUR), a dynamic woman.

Ms. KAPTUR. Mr. Speaker, I thank the dynamic ranking member for yielding me this time.

Mr. Speaker, I wish to rise in support of this resolution, with full knowledge that the resolution itself is harmless. It basically says we hope the President will work with us on this, but the truth is that this Congress several times this year has had the opportunity to appropriate the money to help the victims in North Carolina, the farmers who have suffered drought related losses all across this country, and we have consistently failed to do that every month.

In fact, in the bill that our committee has responsibility for, the appropriations bill, our committee was dismissed and never called back as Members waited to offer amendments to deal with the serious situation in North Carolina, and the bills that passed in prior weeks here have not accommodated the full range of losses across this country.

So, in a way, I guess it is good to shift the buck up the street, but the truth is that we in the Congress have the power, we have had the power, and there was no reason for our committees to be discharged of their duties.

So those of us who have been to many of these regions recognize the huge losses that exist out there both in life, limb, and property. And it is unconscionable that this Congress would be fiddling around in the closing days of this first session of the 106th Congress in passing a resolution that has no money attached to it when in fact we have had several opportunities to do that.

I would just say to the gentleman from North Carolina, I hope that he would agree to regular order and that the committees of jurisdiction be allowed to act and to meet the needs of the Nation as this resolution is brought forward.

I would also like to enter into the RECORD the lopsided picture of what is wrong with the bills that have been passed prior this year that do not fully deal with the loss situation affecting regions across this country, not just those that have been affected by Hurricane Floyd, but regions that have truly suffered from drought and economic loss all across rural America. We actually let a two-legged dog get through here and passed it a few weeks ago, but it certainly does not deal with the range of losses across our country.

NEWS FROM CONGRESSWOMAN MARCY KAPTUR

LOPSIDED FARM BILL: WHAT'S WRONG WITH THIS PICTURE?

The lopsided $8.7 billion fiscal 2000 Agricultural Appropriations relief bill fails to link the major share of assistance to farmer hardship or loss. It provides only $1.2 billion for natural disaster relief across our entire nation. It does not include needed funds for hurricane losses in North Carolina. Yet it then targets $5.5 billion in Agricultural Market Transition Act (AMTA) payments to certain farmers with $1.2 billion of these payments going to just five Congressional Districts. Forty percent of all AMTA payments—$2.2 billion—will be distributed in only five states: Iowa, Texas, Illinois, Nebraska and Kansas.

Five Congressional Districts get as much money in AMTA payments as is available for the entire nation for natural disaster assistance. These AMTA payments will not go to farmers who lost their crops. They go to people who signed production contracts with USDA three years ago based on the average of acreage planted between 1991 and 1995, even though some of them are no longer even actively involved in farming. And this $5.5 billion is added on top of $3 billion in similar payments that were made last year. Taxpayers are now paying more to assist farmers with economic losses than they were before Freedom to Farm was passed in 1996.

Some of us tried to argue that money should be targeted towards those farmers who have suffered the greatest losses. That means starting with the people who have had their entire crops wiped out by drought or Hurricane Floyd, regardless of what they produce.

You may remember hearing during debate that Congress had to pass this bill because ''we can't delay payments to farmers.'' Yet the Republican-led Congress has delayed this bill all year long as rural America faces crisis. Natural disaster victims and those who suffered real losses should be the people who are first in line. This bill does them no justice.

Rather, the first to receive the largest share of taxpayer-borne benefits are individuals who planted and harvested a crop for which they are being paid under ''Freedom to Farm''. Some people who are no longer actively involved in farming at all will receive payments. These are the people who can expect their check just two weeks after this bill is signed into law, while those who may have lost everything will have to wait! Even then, producers who may have lost everything will get only cents on the dollar, while others who did not suffer natural disasters will get a doubling of payments for crops they harvested or didn't have to plant.

And because of the prejudice in the bill against livestock, dairy, specialty crop and non-feed grain production, some farmers who

suffered huge economic losses will receive almost nothing.

Fatal flaws exist with our farm disaster response mechanism. Crop insurance either doesn't provide the right coverage, or in the case of many fruit, vegetable, and livestock producers it doesn't provide any coverage. And while the assistance Congress did provide will certainly be helpful to some, since there isn't enough money to go around, the first applicant doesn't get a penny until the last application is processed. Continuing federal bailouts for failed farm policy is not the solution. Farmers need help in moving value-added products to market. And antitrust laws need to be applied to agriculture to create a competitive playing field for farmers. This bill accomplishes none of these goals.

I and many of our colleagues in the Agricultural Appropriations Conference were prepared to offer amendments to try to begin to address the real dimensions of the crisis. We were never given the chance. We were sent away while a few members handpicked by the majority leaders negotiated this bogus deal without consultation with members of the conference committee or with USDA. And they produced a lopsided deal whereby some of the largest, most profitable farms will be among the bill's biggest beneficiaries. Philip Brasher, the AP Farm Writer notes, ''an individual farm could claim up to $460,000 in subsidies a year—double the current restriction,'' and the bill ''creates a new loophole for producers to get around'' any cap. The Wichita Eagle quoted one farmer who said ''I probably would have made it without the relief, but I am sure glad to get it.''

Agriculture is vital to our nation and to world trade. Farmers deserve a fair price for their production, and I certainly agree that farm prices are so low that many producers may be forced out of business without some help. That principle applies from the largest wheat producer to the smallest blueberry producer, from the grandest corn farm to the smallest livestock feed lot. Farmer should not be pitted against farmer, or commodity against commodity. That is the grossest violation of the spirit of Freedom to Farm, along with its exorbitant rising costs.

Every person should know more about what it takes to produce the food that we find in our grocery stores, our restaurants, our school cafeterias, our hospitals, and our homes. If it wasn't for the farmer, many more than just Old Mother Hubbard would find their cupboards are bare. I urge all of my colleagues to demand that equity be restored to our farm programs. Our first resolution of the new millennium should be using food policy to build a sustainable future, not a politically expedient deal.

PRODUCTION FLEXIBILITY CONTRACT (PFC) AND MARKET LOSS ASSISTANCE PAYMENTS (MLA) AS OF OCTOBER 12, 1999

State	1996 PFC	1997 PFC	1998 PFC	1998 MLA	1999 PFC
Alabama	40,467,520	38,637,285	39,652,395	19,680,513	38,391,391
Alaska	113,113	95,744	154,628	75,909	142,563
Arizona	48,636,715	41,342,850	42,505,051	20,979,038	41,248,942
Arkansas	270,218,405	255,665,945	269,503,828	133,470,899	261,207,857
California	214,426,465	194,536,442	200,724,584	99,587,621	194,572,135
Colorado	99,060,318	101,549,848	96,113,822	47,737,482	92,403,334
Connecticut	657,596	1,277,726	966,990	480,786	898,918
Delaware	4,078,892	5,767,472	4,656,452	2,314,615	4,531,736
Florida	7,674,380	8,611,463	8,218,456	4,055,333	7,938,618
Georgia	78,967,887	78,301,242	78,636,870	38,960,173	76,801,353
Idaho	88,020,599	66,870,229	69,767,907	34,591,091	68,048,964
Illinois	336,934,970	591,872,146	468,976,183	233,055,424	453,786,170
Indiana	167,654,680	292,306,113	231,267,914	114,828,722	223,747,809
Iowa	350,204,031	680,482,273	535,614,804	266,154,282	519,964,728
Kansas	422,164,508	416,585,321	398,275,458	197,861,866	386,393,943
Kentucky	44,131,781	69,425,501	58,096,735	28,869,581	56,318,672
Louisiana	142,444,729	136,690,573	142,032,423	70,385,588	137,002,688
Maine	635,174	1,095,546	881,945	436,922	841,779
Maryland	13,191,365	19,553,845	15,820,657	7,855,606	15,362,962
Massachusetts	418,824	803,624	624,087	310,149	573,344
Michigan	77,447,224	122,137,888	98,680,357	48,964,748	94,661,227
Minnesota	261,553,161	383,872,571	325,271,980	161,603,801	314,081,476
Mississippi	141,277,996	128,368,053	134,540,137	66,671,827	130,768,145
Missouri	153,285,922	191,717,004	177,033,330	87,876,328	172,221,428
Montana	161,753,555	120,285,965	128,284,315	63,688,586	123,519,045
Nebraska	303,285,725	490,124,795	400,684,537	199,131,540	388,298,130
Nevada	1,292,856	975,910	966,266	480,632	892,455
New Hampshire	298,590	579,581	443,156	220,246	416,553
New Jersey	2,282,197	3,506,792	2,799,291	1,392,834	2,614,370
New Mexico	20,730,461	22,034,510	20,138,880	9,985,810	19,262,720
New York	23,103,691	38,975,280	30,722,830	15,255,562	29,335,341
North Carolina	59,249,242	70,831,744	63,870,858	31,699,576	61,452,996
North Dakota	309,725,393	245,064,378	247,571,781	123,043,118	241,086,814
Ohio	124,604,065	193,394,113	157,377,107	78,207,627	152,049,988
Oklahoma	186,662,781	144,934,642	151,801,266	75,381,123	145,750,351
Oregon	45,904,919	34,101,905	36,906,952	18,316,880	35,452,257
Pennsylvania	17,640,039	30,342,086	23,856,680	11,844,120	22,706,512
Rhode Island	22,996	42,700	32,620	16,219	31,167
South Carolina	29,480,189	31,484,492	29,833,675	14,814,764	28,697,339
South Dakota	151,823,144	183,138,057	161,761,468	80,363,059	157,964,862
Tennessee	54,024,748	58,275,295	56,163,498	27,921,231	54,463,897
Texas	487,910,686	499,061,577	489,390,775	242,987,274	471,675,111
Utah	8,220,349	7,087,833	7,528,915	3,743,473	7,190,709
Vermont	1,023,526	1,945,013	1,494,511	742,676	1,435,527
Virginia	19,540,254	25,449,752	21,871,161	10,838,183	20,927,048
Washington	116,986,240	87,803,692	93,801,146	46,568,383	89,011,067
West Virginia	1,631,977	2,813,180	2,228,698	1,107,232	2,117,358
Wisconsin	86,504,956	159,860,721	125,601,573	62,437,805	120,841,099
Wyoming	9,062,684	8,587,674	8,607,507	4,283,253	8,187,045
Total	5,186,431,518	6,288,268,390	5,661,756,462	2,811,279,510	5,477,289,938

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EXPECTED MARKET LOSS PAYMENTS FOR FY 1999

Representative, State, and District	1999 Supplemental Payment
Ackerman, Gary L.: NY—05	$21,000
Aderholt, Robert B.: AL—04	4,736,000
Allen, Thomas H.: ME—01	165,000
Andrews, Robert E.: NJ—01	465,000
Archer, Bill: TX—07	2,454,000
Armey, Richard K.: TX—26	4,318,000
Bachus, Spencer: AL—06	710,000
Baird, Brian: WA—03	1,291,000
Baker, Richard H.: LA—06	3,502,000
Baldacci, John Elias: ME—02	771,000
Baldwin, Tammy: WI—02	40,091,000
Ballenger, Cass: NC—10	1,642,000
Barcia, James A.: MI—05	27,292,000
Barr, Bob: GA—07	663,000
Barrett, Bill: NE—03	306,519,000
Barrett, Thomas M.: WI—05	30,000
Bartlett, Roscoe G.: MD—06	2,927,000
Barton, Joe: TX—06	4,188,000
Bass, Charles F.: NH—02	450,000
Bateman, Herbert H.: VA—01	4,412,000
Becerra, Xavier: CA—30	46,000

EXPECTED MARKET LOSS PAYMENTS FOR FY 1999—Continued

Representative, State, and District	1999 Supplemental Payment
Bentsen, Ken: TX—25	2,454,000
Bereuter, Doug: NE—01	122,501,000
Berkley, Shelley: NV—01	12,000
Berman, Howard L.: CA—26	46,000
Berry, Marion: AR—01	173,946,000
Biggert, Judy: IL—13	6,111,000
Bilbray, Brian P.: CA—49	19,000
Bilirakis, Michael: FL—09	10,000
Bishop, Sanford D., Jr.: GA—02	37,418,000
Blagojevich, Rod R.: IL—05	322,000
Bliley, Thomas J., Jr.: VA—07	2,066,000
Blumenauer, Earl: OR—03	186,000
Blunt, Roy: MO—07	5,260,000
Boehlert, Sherwood, L.: NY—23	3,882,000
Boehner, John A.: OH—08	24,549,000
Bonilla, Henry: TX—23	11,776,000
Bonior, David E.: MI—10	2,072,000
Bono, Mary: CA—44	2,039,000
Boswell, Leonard L.: IA—03	99,245,000

EXPECTED MARKET LOSS PAYMENTS FOR FY 1999—Continued

Representative, State, and District	1999 Supplemental Payment
Boucher, Rick: VA—09	1,004,000
Boyd, Allen: FL—02	3,681,000
Brady, Kevin: TX—08	6,740,000
Brady, Robert A.: PA—01	43,000
Brown, Corrine: FL—03	66,000
Brown, George E., Jr.: CA—42	2,000
Brown, Sherrod: OH—13	3,970,000
Bryant, Ed: TN—07	10,386,000
Burr, Richard M.: NC—05	1,646,000
Burton, Dan: IN—06	27,257,000
Buyer, Stephen E.: IN—05	75,152,000
Callahan, Sonny: AL—01	4,750,000
Calvert, Ken: CA—43	2,039,000
Camp, Dave: MI—04	20,415,000
Campbell, Tom: CA—15	45,000
Canady, Charles T.: FL—12	107,000
Cannon, Chris: UT—03	1,607,000
Capps, Lois: CA—22	653,000
Capuano, Michael: MA—08	31,000

EXPECTED MARKET LOSS PAYMENTS FOR FY 1999—Continued

Representative, State, and District	1999 Supplemental Payment
Cardin, Benjamin L.: MD—03	950,000
Carson, Julia: IN—10	484,000
Castle, Michael N.: DE—00	5,070,000
Chabot, Steve: OH—01	196,000
Chambliss, Saxby: GA—08	17,046,000
Chenoweth, Helen: ID—01	19,658,000
Clay, William (Bill): MO—01	331,000
Clayton, Eva M.: NC—01	38,531,000
Clement, Bob: TN—05	1,543,000
Clyburn, James E.: SC—06	18,359,000
Coble, Howard: NC—06	1,164,000
Coburn, Tom A.: OK—02	6,003,000
Collins, Mac: GA—03	264,000
Combest, Larry: TX—19	105,448,000
Condit, Gary A.: CA—18	36,180,000
Conyers, John, Jr.: MI—14	93,000
Cook, Merrill: UT—02	188,000
Cooksey, John: LA—05	66,373,000
Costello, Jerry F.: IL—12	18,249,000
Coyne, William J.: PA—14	24,000
Cramer, Robert E. ''Bud'', Jr.: AL—05	11,791,000
Crane, Philip M.: IL—08	1,032,000
Cubin, Barbara: WY—00	7,583,000
Cummings, Elijah E.: ME—07	627,000
Cunningham, Randy ''Duke'': CA—51	19,000
Danner, Pat: MO—06	45,003,000
Davis, Danny K.: IL—07	322,000
Davis, Jim: FL—11	7,000
Davis, Thomas M. III: VA—11	117,000
Deal, Nathan: GA—09	527,000
DeFazio, Peter A.: OR—04	1,019,000
DeGette Diana: CO—01	4,092,000
Delahunt, William D.: MA—10	53,000
DeLauro, Rosa L.: CT—03	82,000
DeLay, Tom: TX—22	13,123,000
DeMint, Jim: SC—04	254,000
Dickey, Jay: AR—04	45,782,000
Dicks, Norman D.: WA—06	30,000
Dingell, John D.: MI—16	2,979,000
Dixon, Julian C.: CA—32	46,000
Doggett, Lloyd: TX—10	1,161,000
Dooley, Calvin M.: CA—20	60,371,000
Doolittle, John T.: CA—04	7,295,000
Doyle, Michael F.: PA—18	24,000
Dreier, David: CA—28	46,000
Duncan, John J., Jr.: TN—02	655,000
Dunn, Jennifer: WA—08	25,000
Edwards, Chet: TX—11	15,052,000
Ehlers, Vernon J.: MI—03	6,444,000
Ehrlich, Robert L., Jr.: MD—02	1,287,000
Emerson, Jo Ann: MO—08	55,413,000
Engel, Eliot L.: NY—17	2,000
English, Philip: PA—21	2,557,000
Eshoo, Anna G.: CA—14	45,000
Etheridge, Bob: NC—02	9,917,000
Evans, lane: IL—17	108,911,000
Everett, Terry: AL—02	9,623,000
Ewing, Thomas W.: IL—15	107,926,000
Farr, Sam: CA—17	610,000
Fattah, Chaka: PA—02	43,000
Filner, Bob: CA—50	19,000
Fletcher, Ernest L.: KY—06	3,394,000
Foley, Mark: FL—16	445,000
Forbes, Michael P.: NY—01	21,000
Ford, Harold E., Jr.: TN—09	1,405,000
Fowler, Tillie K.: FL—04	21,000
Frank, Barney: MA—04	185,000
Franks, Bob: NJ—07	341,000
Frelinguysen, Rodney P.: NJ—11	393,000
Frost, Martin: TX—24	4,835,000
Gallegly, Elton: CA—23	19,000
Ganske, Greg: IA—04	65,138,000
Gejdenson, Sam: CT—02	687,000
Gekas, George W.: PA—17	3,319,000
Gephardt, Richard A.: MO—03	1,267,000
Gibbons, Jim: NV—02	863,000
Gilchrest, Wayne T.: MD—01	11,664,000
Gillmor, Paul E.: OH—05	44,141,000
Gilman, Benjamin A.: NY—20	556,000
Gonzalez, Henry B.: TX—20	770,000
Goode, Virgil H., Jr.: VA—05	2,496,000
Goodlatte, Robert W. (Bob): VA—06	1,249,000
Goodling, William F.: PA—19	2,888,000
Gordon, Bart: TN—06	2,091,000
Graham, Lindsey O.: SC—03	1,496,000
Granger, Kay: TX—12	1,075,000
Green, Gene: TX—29	2,454,000
Green, Mark: WI—08	17,297,000
Greenwood, James C.: PA—08	539,000
Gutierrez, Luis V.: IL—04	322,000
Gutknecht, Gilbert W.: MN—01	97,092,000
Hall, Ralph M.: TX—04	11,117,000
Hall, Tony P.: OH—03	1,579,000
Hansen, James V.: UT—01	4,837,000
Hastert, J. Dennis: IL—14	45,115,000
Hastings, ''Doc'': WA—04	28,952,000
Hastings, Alcee L.: FL—23	376,000
Hayes Robin: NC—08	8,925,000
Hayworth, J.D.: AZ—06	25,592,000
Hefley, Joel: CO—05	1,295,000
Herger, Wally: CA—02	20,518,000
Hill, Baron: IN—09	29,108,000
Hill, Rick: MT—00	106,649,000
Hilleary, Van: TN—04	4,900,000
Hilliard, Earl F.: AL—07	4,488,000
Hinchey, Maurice D.: NY—26	2,440,000
Hinojosa, Ruben: TX—15	27,749,000
Hobson, David L.: OH—07	31,685,000

EXPECTED MARKET LOSS PAYMENTS FOR FY 1999—Continued

Representative, State, and District	1999 Supplemental Payment
Hoeffel, Joe: PA—13	231,000
Hoekstra, Peter: MI—02	9,600,000
Holden, Tim: PA—06	2,779,000
Holt, Rush: NJ—12	1,219,000
Hooley, Darlene: OR—05	1,973,000
Horn, Stephen: CA—38	46,000
Hostettler, John N.: IN—08	32,629,000
Houghton, Amo: NY—31	7,728,000
Hoyer, Steny H.: MD—05	690,000
Hulshof, Kenny C.: MO—09	36,451,000
Hunter, Duncan: CA—52	3,957,000
Hutchinson, Asa: AR—03	672,000
Hyde, Henry J.: IL—06	569,000
Inslee, Jay: WA—01	158,000
Isakson, John: GA—06	5,000
Istook, Ernest J., Jr.: OK—05	14,878,000
Jackson, Jesse L., Jr.: IL—02	322,000
Jenkins, William L.: TN—01	748,000
John, Christopher: LA—07	51,089,000
Johnson, Eddie Bernice: TX—30	546,000
Johnson, Nancy L.: CT—06	632,000
Johnson, Sam: TX—03	2,558,000
Jones, Stephanie Tubbs: OH—11	2,000
Jones, Walter B., Jr.: NC—03	26,186,000
Kanjorski, Paul E.: PA—11	2,570,000
Kaptur, Marcy: OH—09	11,899,000
Kasich, John R.: OH—12	6,496,000
Kelly, Sue W.: NY—19	683,000
Kennedy, Patrick J.: RI—01	13,000
Kildee, Dale E.: MI—09	4,526,000
Kilpatrick, Carolyn C.: MI—15	93,000
Kind, Ron: WI—03	38,628,000
Kingston, Jack: GA—01	6,959,000
Kleczka, Gerald D.: WI—04	1,677,000
Klink, Ron: PA—04	1,447,000
Knollenberg, Joe: MI—11	355,000
Kolbe, Jim: AZ—05	15,779,000
Kucinich, Dennis J.: OH—10	2,000
Kuykendall, Steven T.: CA—36	46,000
LaFalce, John J.: NY—29	5,126,000
LaHood, Ray: IL—18	90,297,000
Lampson, Nick: TX—09	14,232,000
Largent, Steve: OK—01	844,000
Larson, John B.: CT—01	342,000
Latham, Tom: IA—05	227,822,000
LaTourette, Steven C.: OH—19	902,000
Lazio, Rick A.: NY—02	21,000
Leach, James A.: IA—01	56,471,000
Lee, Barbara: CA—09	109,000
Lee, Sheila Jackson: TX—18	2,454,000
Levin, Sander M.: MI—12	839,000
Lewis, Jerry: CA—40	2,000
Lewis, John: GA—05	0
Lewis, Ron: KY—02	15,105,000
Linder, John: GA—11	872,000
Lipinski, William O.: IL—03	322,000
LoBiondo, Frank A.: NJ—02	972,000
Lofgren, Zoe: CA—16	45,000
Lowey, Nita M.: NY—18	2,000
Lucas, Frank D.: OK—06	88,953,000
Lucas, Kenneth: KY—04	3,007,000
Luther, William (Bill): MN—06	5,540,000
Maloney, James H.: CT—05	57,000
Manzullo, Donald A.: IL—16	34,750,000
Markey, Edward J.: MA—07	31,000
Martinez, Matthew G.: CA—31	46,000
Mascara, Frank: PA—20	1,120,000
Matsui, Robert T.: CA—05	4,716,000
McCarthy, Karen: MO—05	653,000
McCollum, Bill: FL—08	5,000
McCrery, Jim: LA—04	10,064,000
McDermott, Jim: WA—07	24,000
McGovern, James P.: MA—03	283,000
McHugh, John M.: NY—24	3,553,000
McInnis, Scott: CO—03	4,517,000
McIntosh, David M.: IN—02	39,744,000
McIntyre, Mike: NC—07	8,277,000
McKeon, Howard P. ''Buck'': CA—25	46,000
McKinney, Cynthia A.: GA—04	2,000
McNulty, Michael R.: NY—21	2,075,000
Meehan, Martin T.: MA—05	198,000
Menendez, Robert: NJ—13	164,000
Metcalf, Jack: WA—02	475,000
Millender-McDonald, Juanita: CA—37	46,000
Miller, Dan: FL—13	10,000
Miller, Gary G.: CA—41	48,000
Miller, George: CA—07	2,802,000
Minge, David: MN—02	157,170,000
Moakley, John Joseph: MA—09	155,000
Mollohan, Alan B.: WV—01	311,000
Moore, Dennis: KS—03	2,837,000
Moran, Jerry: KS—01	288,220,000
Morella, Constance A.: MD—08	764,000
Murtha, John P.: PA—12	3,058,000
Myrick, Sue: NC—09	456,000
Napolitano, Grace F.: CA—34	46,000
Neal, Richard E.: MA—02	310,000
Nethercutt, George R., Jr.: WA—05	56,771,000
Ney, Robert W.: OH—18	8,354,000
Northup, Anne M.: KY—03	85,000
Norwood, Charles: GA—10	6,626,000
Nussle, Jim: IA—02	146,148,000
Oberstar, James L.: MN—08	11,425,000
Obey, David R.: WI—07	17,486,000
Olver, John W.: MA—01	527,000
Ortiz, Solomon P.: TX—27	21,226,000
Ose, Doug: CA—03	83,019,000
Oxley, Michael G.: OH—04	33,503,000

EXPECTED MARKET LOSS PAYMENTS FOR FY 1999—Continued

Representative, State, and District	1999 Supplemental Payment
Packard, Ron: CA—48	2,057,000
Pallone, Frank, Jr.: NJ—06	369,000
Pastor, Ed: AZ—02	29,177,000
Paul, Ron: TX—14	69,843,000
Pease, Edward A.: IN—07	38,639,000
Peterson, Collin C.: MN—07	88,817,000
Peterson, John E.: PA—05	4,442,000
Petri, Thomas E.: WI—06	28,236,000
Phelps, David D. IL—19	87,637,000
Pickering, Charles W. ''Chip'': MS—03	5,964,000
Pickett, Owen B.: VA—02	504,000
Pitts, Joseph R.: PA—16	1,223,000
Pombo, Richard W.: CA—11	9,099,000
Pomeroy, Earl: ND—00	215,998,000
Porter, John Edward: IL—10	1,032,000
Portman, Rob: OH—02	5,381,000
Price, David E.: NC—04	549,000
Pryce, Deborah: OH—15	10,123,000
Quinn, Jack: NY—30	736,000
Radanovich, George P.: CA—19	36,953,000
Rahall, Nick J. II: WV—03	381,000
Ramstad, Jim: MN—03	9,556,000
Regula, Ralph: OH—16	8,156,000
Reyes, Silvestre: TX—16	300,000
Riley, Bob: AL—03	1,440,000
Rivers, Lynn Nancy: MI—13	2,491,000
Rodriguez, Ciro D.: TX—28	9,099,000
Roemer, Timothy J: IN—03	17,020,000
Rogan, James E.: CA—27	46,000
Rogers, Harold: KY—05	1,173,000
Roukema, Marge: NJ—05	813,000
Roybal-Allard, Lucille: CA—33	46,000
Royce, Edward R.: CA—39	46,000
Rush, Bobby L.: IL—01	322,000
Ryun, Paul D.: WI—01	24,892,000
Rynn, Jim: KS—02	42,948,000
Sabo, Martin Olav: MN—05	761,000
Salmon, Matt: AZ—01	13,350,000
Sanders, Bernard: VT—00	1,717,000
Sandlin, Max: TX—01	5,476,000
Sanford, Marshall ''Mark'': SC—01	1,742,000
Sawyer, Thomas C.: OH—14	1,888,000
Saxton, Jim: NJ—03	385,000
Scarborough, Joe: FL—01	2,876,000
Schaffer, Bob: CO—04	86,039,000
Schakowsky, Janice D.: IL—09	322,000
Scott, Robert C. (Bobby): VA—03	4,193,000
Sensenbrenner, F. James, Jr.: WI—09	18,653,000
Sessions, Pete: TX—05	3,860,000
Shadegg, John B.: AZ—04	13,350,000
Shaw, E. Clay, Jr.: FL—22	301,000
Shays, Christopher: CT—04	6,000
Sherman, Brad: CA—24	46,000
Sherwood, Don: PA—10	1,853,000
Shimkus, John: IL—20	79,277,000
Shows, Ronnie: MS—04	2,309,000
Shuster, Bud: PA—09	5,905,000
Simpson, Michael ID—02	41,001,000
Sisisky, Norman: VA—04	7,566,000
Skeen, Joe: NM—02	4,963,000
Shelton, Ike: MO—04	26,246,000
Slaughter, Louise McIntosh: NY—28	1,158,000
Smith, Adam: WA—09	25,000
Smith, Christopher H.: NJ—04	811,000
Smith, Lamar S.: TX—21	14,064,000
Smith, Nick: MI—07	26,628,000
Snyder, Vic: AR—02	6,536,000
Souder, Mark E.: IN—04	25,241,000
Spence, Floyd: SC—02	9,003,000
Spratt, John M., Jr.: SC—05	9,916,000
Stabenow, Debbie: MI—08	11,060,000
Stark, Fortney Pete: CA—13	154,000
Stearns, Cliff: FL—06	159,000
Stenholm, Charles W.: TX—17	43,100,000
Strickland, Ted: OH—06	14,739,000
Stump, Bob: AZ—03	16,155,000
Stupak, Bart: MI—01	2,370,000
Sununu, John E.: NH—01	194,000
Sweeney, John E.: NY—22	3,029,000
Talent, James M.: MO—02	2,495,000
Tancredo, Tom: CO—06	1,175,000
Tanner, John S.: TN—08	33,250,000
Tauscher, Ellen O.: CA—10	387,000
Tauzin, W.J. (Billy): LA—03	1,010,000
Taylor, Charles H.: NC—11	677,000
Taylor, Gene: MS—05	507,000
Terry, Lee: NE—02	7,830,000
Thomas, William M.: CA—21	30,032,000
Thompson, Bennie G.: MS—02	96,319,000
Thompson, Mike: CA—01	2,551,000
Thornberry, William M. ''Mac'': TX—13	12,273,000
Thune, John R.:	161,394,000
Thurman, Karen L: FL—05	684,000
Tiahrt, Todd: KS—04	40,109,000
Tierney, John F.: MA—06	60,000
Toomey, Pat: PA—15	1,731,000
Traficant, James A., Jr.: OH—17	2,250,000
Turner, Jim: TX—02	5,693,000
Udall, Mark: CO—02	3,185,000
Udall, Tom: NM—03	14,385,000
Upton, Fred: MI—06	16,655,000
Velazquez, Nydia: NY—27	14,150,000
Vento, Bruce F.: MN—04	4,849,000
Visclosky, Peter J.: IN—01	5,842,000
Vitter, David: LA—01	120,000
Walden, Greg: OR—02	25,203,000
Walsh, James T.: NY—25	4,374,000
Wamp, Zach: TN—03	778,000

EXPECTED MARKET LOSS PAYMENTS FOR FY 1999—Continued

Representative, State, and District	1999 Supplemental Payment
Waters, Maxine: CA—35	46,000
Watkins, Wes: OK—03	4,284,000
Watt, Melvin L.: NC—12	1,558,000
Watts, J.C. Jr.: OK—04	20,267,000
Waxman, Henry A.: CA—29	46,000
Weldon, Curt: PA—07	827,000
Weldon, Dave: FL—15	165,000
Weller, Jerry: IL—11	33,362,000
Wexler, Robert: FL—19	301,000
Weygand, Robert A.: RI—02	26,000
Whitfield, Edward: KY—01	38,461,000
Wicker, Roger F.: MS—01	21,805,000
Wilson, Heather: MN—01	377,000
Wise, Robert E., Jr.: WV—02	1,777,000
Wolf, Frank R.: VA—10	2,347,000
Woolsey, Lynn C.: CA—06	27,000
Wu, David: OR—01	2,502,000
Wynn, Albert Russell: MD—04	828,000
Young, Don: AK—00	84,000

May be slight variations due to CRP entrance and exits and payment limitations. Prepared by House Agriculture Committee.

So I would say that this is a good step. It is a step, however, that needs to be trumped by Congress itself taking action to deal with the losses relating to Hurricane Floyd and other farm and rural related losses across the country.

Mr. COBLE. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BURR).

Mr. BURR of North Carolina. Mr. Speaker, I thank my colleague from North Carolina for yielding me the time.

Dennis, Floyd, and Irene are not the list of newborn names but they are simply a list of hurricanes that devastated eastern North Carolina over the past 2 months. The brunt of the damage was leveled by Hurricane Floyd, leaving in its wake a destructive flood that damaged our State and is the worst that we have ever seen.

I ask my colleagues to stop for a minute the blame game and to concentrate on those individuals who live in eastern North Carolina, the individuals that have lost their home, lost their job, are living with friends or relatives or in a trailer, individuals who are still making a home mortgage on a house that does not exist and are being offered, hopefully, grants to rebuild. They are the ones that our hearts should go out to today and, hopefully, that this Federal Government is responsible to help.

Mr. Speaker, to echo the words of the President on September 17 and the days following the hurricane, he said, ''We're reminded that the power of the American spirit is even stronger than the power of a hurricane.''

Nothing could be more true. As the saying goes in our State, from Murphy to Manteo, the response for assistance has been overwhelming and it has come from every sector of our State. Whether it came from the banking centers in Charlotte or the churches and the civic club in cities in my district, no stone has been left unturned in our State to make sure that these people get assistance that they need to get back on their feet and return to a normal way of life.

Quoting the President again on a September 16 speech at FEMA headquarters, he said, ''I know I speak for all when I say we do not want them to feel alone. We want to do everything we possibly can to be a good, loyal, helpful neighbor to them and get them through this.''

Mr. Speaker, the citizens of our State have been the good, loyal neighbor the President spoke of. The officials on the ground, FEMA, and the other disaster agencies have been the helpful neighbor as well. It is time for the administration to step forward and be the good, loyal, helpful neighbor we expect of our Federal Government.

Every day that passes without a recommendation for emergency assistance is another day that the loneliness the President so sought to avoid only sets in as reality to storm victims of our State.

I thank the gentleman from North Carolina (Mr. TAYLOR) for bringing this resolution to the floor and especially thank the overwhelming support of our colleagues on both sides of the aisle and our delegation for this resolution.

It has been said that in international affairs partisanship stops at the water's edge. Based on the support of this resolution, it can also be said unequivocally that when a disaster of this magnitude strikes in our State, partisanship stops at our State borders.

Mr. TRAFICANT. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. MCINTYRE).

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

Mr. MCINTYRE. Mr. Speaker, I thank the gentleman from Ohio for yielding me the time, and I thank all of my fellow North Carolinians on both sides of the aisle for working together to bring this resolution to the floor today.

When we think about just 46 days ago Hurricane Floyd hit the Tarheel State with 15 inches of rain in an area already saturated by Hurricane Dennis and then later, just in the last 2 weeks, to be hit again by a third, Hurricane Irene, we realize that this is a natural disaster truly of Biblical proportions when we talk about flooding, something that has been unseen in this Nation literally since the first settlers arrived, with the 50 lives lost and over 47,000 homes damaged, a thousand roads closed, schools, waste water treatment plants, farmers, our beaches, all of these areas affected in negative ways.

Governor Hunt of North Carolina has put together a very well done package to help this devastation, and he has worked with this administration to reduce the price tag of emergency requests to $17.6 billion. For that we are thankful.

We are thankful also for the hard work of the gentleman from New York (Mr. WALSH), the gentleman from West Virginia (Mr. MOLLOHAN), the gentleman from North Carolina (Mr. PRICE), the gentleman from North Carolina (Mr. TAYLOR) and others who have worked on the Committee on Appropriations to help FEMA get the funding that it has received.

But my fellow colleagues here in the House, there is more that needs to be done. Our farmers need help. Our coastal communities need relief and protection. Our small businesses need aid.

Back in September, on the 29th of the month, all 12 members of our North Carolina delegation from both sides of the aisle asked the President to forward a relief package to Congress by October 15. Obviously, that request has not yet been met. But let us keep pushing together. Let us push the administration to get some of these needs met. And let us push ourselves to do the job.

Let us indeed do not play a blame game. But let us find a way, instead of to complain, a way to help each other.

Recently chosen as the greatest inventor of this century, Henry Ford once said that coming together is a beginning. And we have begun the process. And then he said keeping together is progress. And we have made some progress. But then he said that working together is success. And that is the challenge we have now, to work together with the White House, yes, and to work together here in the Congress, yes, that we allow both tracks to be running parallel, and that indeed we find a way not to find fault but we find a way to get the job done.

This is the people's House and we are here, first and foremost, to represent the people. People that come to America or that have grown up in America realize that, when they have lost their home, there is not anywhere that they can retreat to. They are looking to us to make the advance to help those who have lost so much.

May God grant us the wisdom and the will to find a way to work together and we will succeed.

Mr. COBLE. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. COBLE) has 8 minutes remaining.

Mr. COBLE. Mr. Speaker, I yield 4 minutes to the gentleman from North Carolina (Mr. HAYES).

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

Mr. HAYES. Mr. Speaker, I thank the gentleman from North Carolina for yielding me the time.

Hurricane Floyd swept through North Carolina on September 15, 1999, over 6 weeks ago. In September of 1989, when Hurricane Hugo batted the Carolinas, President Bush requested disaster relief, and it was provided by the Congress in less than 2 weeks. Later, Hurricane Andrew devastated Florida and the Gulf States. Within 30 days a bill had been signed into action.

My colleagues, I am here to say today that this delegation from North Carolina has worked together tirelessly to bring the results and the help that North Carolina needs. They have

worked around the clock, and we appreciate that. The private sector broadcasters had a telethon and raised millions of dollars. Personal calls have been made by Senators and House Members.

The private sector, FEMA, the Department of Agriculture, VA–HUD, this Congress has worked to bring aid and relief and money to North Carolina.

The missing ingredient now, Mr. Speaker, that we need is that bill from the White House that will help put the final piece to this puzzle together.

□ 1745

As others have said, this is unprecedented. Fifty confirmed fatalities, thousands of displaced families, 30,000 flooded homes. I cannot help but remember on visits to North Carolina several weeks ago, the looks in the eyes of the people who had lost everything. The Jones family in Pitt County who had been thinking of their tobacco crop at 4 a.m. in the morning, worrying that the power would go out. They went to check, to see if the power was on and they found the water rising in their garage. From there it rose into their living room and on up it went. True, the Coast Guard ended up rescuing these people because of the water.

I have a picture here, Mr. Speaker. We have had instances in the past where crops were lost. But this flood was so bad that even the farm equipment was lost. We see a tractor underwater. The President can come to the table to meet this unprecedented need by putting forward a request for the additional emergency aid that is so essential. In Duplin County as I spoke to a farm family there, I have a sequence of pictures showing the water rising on their poultry houses. It rose, the birds got up on the edges of the house, finally they were all drowned. Unprecedented disaster.

We need the President to come forward with that piece which is an emergency supplemental bill that addresses the needs that have been so carefully and well outlined by my colleagues. I am disappointed that the lack of the initiative has been there. We need help for victims of Hurricane Floyd. President Clinton came to North Carolina, promised relief, and gave us a Federal lawsuit to finish off the tobacco farmers.

Mr. Speaker, the need is there. The people are looking to us. Sixty-five or more State legislators along with the governor have come to help make the case that this help is needed. People in North Carolina are watching and listening. We have helped people all over the world. We are trying to meet every need with every possible source of funds. Now is the time, and I hope the President will respond immediately, if not sooner, with that additional supplemental bill that will provide the relief for North Carolina that we need.

Mr. TRAFICANT. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. WATT) who has worked hard on this issue.

Mr. WATT of North Carolina. Mr. Speaker, let me say at the outset that I intend to vote for this resolution. I do not have any problem at all with encouraging the President to send legislation over here on this issue. I think it is important for us to do that. But this is the second nonbinding resolution that this House has passed on this issue. And to the extent that we are engaging in pointing the finger of blame at somebody else for not passing or moving legislation forward to address the concerns and devastation in North Carolina, I think we are playing politics with this resolution. I would be less than honest if I did not express my concern that this resolution has more to do with politics than it has to do with achieving some objective of really helping the people in North Carolina.

It must be strange to the people in eastern North Carolina to see us come to the floor with a resolution that does not have one dime in it, does not even suggest a dollar amount to help them, and then suggest to them that somehow this is the President's fault that we are not moving forward to try to address their needs.

I have no problem with encouraging the President to submit a bill, but as the gentleman from North Carolina (Mr. PRICE) has indicated, there is no requirement or precedent or necessity for anybody external to this body, the President or anybody else, to come forward with a solution to the problems that face our State.

I want to encourage my colleagues to vote ''yes,'' but I want to be honest about the practical impact of this at the same time.

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

I was not even going to get into this, but since my friend from North Carolina mentioned it, that it would be politically motivated, I think we are comparing the timeliness with which we hear from the administration.

In September of 1989 when Hurricane Hugo battered the Carolinas, President Bush requested disaster relief and it was provided by this Congress. This relief was signed into law less than 2 weeks after the hurricane struck. That was my point.

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

Mr. TRAFICANT. Mr. Speaker, I yield 2½ minutes to the gentleman from Minnesota (Mr. OBERSTAR), our distinguished ranking member.

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

Mr. Speaker, the gentleman from North Carolina (Mr. MCINTYRE) said it best. This was a hurricane and a disaster of biblical proportions. It struck 11 States with enormous widespread consequences, billions of dollars in infrastructure damage, in agricultural losses, and President Clinton responded promptly. The administration did not waste time making their disaster declaration. I commend the President for the way he has responded. In fact, in the last decade, this President has declared 42 major disasters from landfall hurricanes. Cost to FEMA, $7.7 billion. The 10 major disaster declarations for Hurricane Floyd are the most for any single hurricane in our history.

And what are the consequences in North Carolina? What has happened? Seventy-three thousand individuals have been received by FEMA, filed applications registering for assistance. Two hundred sixty-three million dollars already has been spent, and more to come. Four thousand six hundred sixty low-interest SBA loans. 20.7 million dollars reimbursed to local governments for infrastructure. Seven hundred thirty-four travel trailers now occupied. And they are still working.

But what troubles me the most is this resolution that says the President should immediately submit recommendations for emergency response actions, including appropriate offsets. This 106th Congress declared the census an emergency and provided money. We have been doing emergency census, then, for 200 some years. What nonsense. If it is that big a deal, declare it an emergency right now and provide the money. I do not like this kind of nonsense that we are engaged in right here, frankly. Why do we have to have this resolution that calls for an offset? Declare it simply an emergency. Be consistent. Do not play games with the lives, the hopes, the aspirations, the concerns of the people in North Carolina and other places who are deserving of help. Just get on with the business of this Congress. Declare it a disaster, declare it an emergency, provide the funds as we did for the census.

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

Mr. Speaker, I support the resolution. I will set all the political talk aside. I want to commend FEMA. I think FEMA is doing a respectable job and they are doing everything possible to mitigate these great problems.

I would like to quote my father, now deceased, here today, and I think I will be quoting many of your parents, many not quite with us. Here is the great quote: ''If we can find money for people all over the world, we can find money for our own people, the American people.''

I think we have talked about this, and we have talked about this. We continue to talk about this. We have seen videos of hogs floating on the flooded plains and fields of North Carolina. It is time for us as a Congress to act. Whatever that mechanism is that brings that action, so be it. I do agree with the gentleman from Minnesota (Mr. OBERSTAR), if we can declare emergencies on other issues, perhaps we should have done that. But the bottom line, the intent of Congress, I believe is honorable. Let us get on with our business. If we can find money for people all over the world, we can find money for the American people in need, in this case in North Carolina.

Mr. COBLE. Mr. Speaker, the gentlewoman from North Carolina (Mrs. CLAYTON), the gentleman from North Carolina (Mr. MCINTYRE) and the gentleman from North Carolina (Mr. JONES) were most obviously affected in our delegation.

I yield the balance of my time to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, to the gentleman my friend from Durham, NC (Mr. PRICE), I want to read to him that we got word just a few minutes ago from the gentleman from North Carolina (Mr. TAYLOR) that the White House, not the House or Senate leadership, demanded that the $508 million for North Carolina relief be taken out of the Labor-HHS bill. I was not there and I do not know, but I wanted to pass that on since I was asked to share that with the House body.

Mr. Speaker, I will say that we have worked very closely together. This is what I think is good about this Congress and good about America. The American people know when their brothers and sisters are in trouble that they come forward and do what they can to assist them. I think this resolution is proper. I am sorry if it has been read as politics, but I do not really think that it should be, because, right or wrong, there is a belief that we need to have the guidance and the leadership of the President to come forward to the Congress with his recommendation after consulting with OMB with recommendations as to what should be done for the people that have been devastated by Hurricane Floyd, whether it be North Carolina or other parts of the United States that have been devastated.

Some of the frustration that we hear back home, and let me first say that FEMA and these other agencies and the multitude of volunteers has been enormous. It really does the heart well to know how much people care about others that are in trouble, but some of the frustration back home as the gentleman from Ohio (Mr. TRAFICANT) just mentioned is that the citizens in eastern North Carolina who pay the taxes, we are elected in Washington to spend their tax dollars, it is the taxpayer that is in trouble now, particularly in eastern North Carolina as well as other parts, New Jersey and some in Maryland and some other parts that need the help of the Congress. Again, it is their money. It is not our money. It is the people's money, the people that pay the taxes.

One thing that comes to mind that I hear quite frequently in my district, I do not vote for foreign aid. I have been here 5 years and I have yet to vote for foreign aid and I do not intend to vote for foreign aid until I see it down in single digits, $6, $7 billion instead of $12 or $14 billion. We passed a bill that was $12.7 billion in foreign aid and the President wants $4 billion more. Again, I voted against that because I thought the $12.7 billion was too much money.

Another problem that we are having is that people read recently where the President of the United States said, well, we ought to forgive 36 countries that owe the United States of America, they do not owe the United States of America, they owe the people that make up the United States of America, $5 billion. So the people in eastern North Carolina want to know if we can forgive a debt of $5 million, why can we not get a couple of billion out of the Congress to help them as they try to recover from this devastation?

Again, I have to answer these questions back home, so I am bringing it to the floor of the House. This summer, the United States sent $500,000 in flood relief to aid China. Every time I have been on the floor of the House and had a chance to vote, I am opposed to MFN for China. So, Mr. Speaker, it is important that we forget the politics and we talk about coming together and passing legislation that will help the people of eastern North Carolina.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentlewoman from North Carolina (Mrs. FOWLER) that the House suspend the rules and agree to the resolution, House Resolution 349.

The question was taken.

Mr. COBLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on House Resolution 349, the resolution just considered.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained. Votes will be taken in the following order:

House Concurrent Resolution 213, by the yeas and nays;

House Resolution 59, by the yeas and nays;

H.R. 3164, by the yeas and nays; and

House Resolution 349, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

ENCOURAGING EDUCATION OFFICIALS TO PROMOTE FINANCIAL LITERACY TRAINING

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 213.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. PETRI) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 213, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 411, nays 3, not voting 19, as follows:

[Roll No. 553]

YEAS—411

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Capuano
Cardin
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood

Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Chenoweth-Hage
Paul
Pombo

NOT VOTING—19

Ackerman
Bliley
Borski
Brady (PA)
Cannon
Carson
Diaz-Balart
Ehrlich
Fattah
Hulshof
Lowey
McNulty
Meeks (NY)
Sabo
Scarborough
Serrano
Shows
Sweeney
Weldon (PA)

□ 1821

Ms. HOOLEY of Oregon changed her vote from ''nay'' to ''yea.''

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further consideration.

SENSE OF HOUSE THAT U.S. REMAINS COMMITTED TO NATO

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 59, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the resolution, House Resolution 59, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 278, nays 133, answered ''present'' 1, not voting 21, as follows:

[Roll No. 554]

YEAS—278

Allen
Andrews
Armey
Bachus
Baird
Baldacci
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blunt
Boehlert
Boehner
Bonior
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Buyer
Calvert
Camp
Capps
Capuano
Cardin
Castle
Chabot
Clayton
Clement
Clyburn
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Davis (FL)
Davis (VA)
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dreier
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Hall (OH)
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hunter
Hyde
Inslee
Isakson
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Lofgren
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McInnis
McIntyre
Meehan
Meek (FL)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (PA)
Phelps
Pickering
Pickett
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Rangel
Regula
Reyes
Rodriguez
Roemer
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Ryan (WI)
Sanchez
Sandlin
Sawyer
Schakowsky
Scott
Shaw
Shays
Sherman
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Spratt
Stabenow
Stenholm
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thurman
Tiahrt
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Walden
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weller
Wexler
Weygand
Wicker
Wilson
Wise
Wolf
Wu
Wynn

NAYS—133

Abercrombie
Aderholt
Archer
Baker
Baldwin
Ballenger
Barcia
Barr
Bartlett
Barton
Bilbray
Bilirakis
Blagojevich
Blumenauer
Bonilla
Bryant
Burr
Burton
Callahan
Campbell
Canady
Chambliss
Chenoweth-Hage
Clay
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Crane
Cubin
Cunningham
Danner
Davis (IL)
Deal
DeFazio
DeLay
DeMint
Dickey
Doolittle
Duncan
Everett
Filner
Frank (MA)
Gibbons
Goode
Graham
Gutknecht
Hall (TX)
Hansen
Hayworth
Herger
Hill (MT)
Hilleary
Hoekstra
Hostettler
Hutchinson
Istook
Jackson (IL)
Jenkins
Johnson, Sam
Jones (NC)
Kingston
Kucinich
Largent
Lee
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McDermott
McHugh
McIntosh
McKeon
McKinney
Metcalf
Miller, George
Minge
Mink
Moran (KS)
Myrick
Nadler
Norwood
Obey
Paul
Pease
Peterson (MN)
Petri
Pitts
Pombo
Ramstad
Riley
Rivers
Rohrabacher
Royce
Ryun (KS)
Salmon
Sanders
Sanford
Saxton
Schaffer
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Slaughter
Smith (MI)
Souder
Spence
Stark
Stearns
Stump
Sununu
Tancredo
Taylor (NC)
Thune
Tierney
Toomey
Traficant
Vitter
Wamp
Watkins
Watts (OK)
Weldon (FL)
Whitfield
Woolsey
Young (AK)

ANSWERED ''PRESENT''—1

Rogan

NOT VOTING—21

Ackerman
Bliley
Borski
Brady (PA)
Cannon
Carson
Diaz-Balart
Ehrlich
Fattah
Hulshof
Lowey
McNulty
Meeks (NY)
Reynolds
Sabo
Scarborough
Serrano
Shows
Sweeney
Weldon (PA)
Young (FL)

□ 1831

Messrs. VITTER, ADERHOLT, MORAN of Kansas, WHITFIELD, and THUNE changed their vote from ''yea'' to ''nay.''

Mrs. CLAYTON changed her vote from ''nay'' to ''yea.''

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FOREIGN NARCOTICS KINGPIN DESIGNATION ACT

The SPEAKER pro tempore (Mr. LAHOOD). The pending business is the question of suspending the rules and passing the bill, H.R. 3164.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 3164, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 385, nays 26, not voting 22, as follows:

[Roll No. 555]

YEAS—385

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Capps
Capuano
Cardin
Castle
Chabot
Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Saxton
Schaffer
Schakowsky
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—26

Barr
Bartlett
Berman
Campbell
Chenoweth-Hage
Conyers
Delahunt
Frank (MA)
Gonzalez
Hastings (FL)
Hill (MT)
Jackson (IL)
Lee
McDermott
McKinney
Miller, George
Nadler
Paul
Payne
Pombo
Rodriguez
Sanders
Sanford
Scott
Stark
Watt (NC)

NOT VOTING—22

Ackerman
Bliley
Borski
Brady (PA)
Cannon
Carson
Diaz-Balart
Ehrlich
Fattah
Hulshof
Lowey
McNulty
Meeks (NY)
Reynolds
Sabo
Sawyer
Scarborough
Serrano
Shows
Sweeney
Weldon (PA)
Young (FL)

□ 1842

Mr. PAYNE and Mr. BARTLETT of Maryland changed their vote from ''yea'' to ''nay.''

So (two-thirds having voted in favor therof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconisder was laid on the table.

SENSE OF CONGRESS THAT THE PRESIDENT SHOULD RECOMMEND ACTIONS FOR RELIEVING VICTIMS OF HURRICANE FLOYD

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, House Resolution 349.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The quesion is on the motion offered by the gentlewoman from Florida (Mrs. FOWLER) that the House suspend the rules and agree to the resolution, House Resolution 349, on which the yeas and nays are ordered.

There will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 556]

YEAS—409

Abercrombie
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Capps
Capuano
Cardin
Castle
Chabot
Chambliss
Chenoweth-Hage
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)

Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Meek (FL)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sanders
Sandlin
Sanford
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—24

Ackerman
Bliley
Borski
Brady (PA)
Cannon
Carson
Diaz-Balart
Ehrlich
Fattah
Hulshof
Hunter
Lowey
McNulty
Meeks (NY)
Reynolds
Sabo
Sawyer
Scarborough
Serrano
Shows
Sweeney
Watkins
Weldon (PA)
Young (FL)

□ 1849

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2915

Mr. LARGENT. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor from H.R. 2915.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H. RES. 298

Mr. MANZULLO. Mr. Speaker, I ask unanimous consent to have my name withdrawn as a cosponsor for H. Res. 298.

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

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON BANKING AND FINANCIAL SERVICES

The Speaker pro tempore laid before the House the following resignation as a member of the Committee on Banking and Financial Services:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 1, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: I write to submit my resignation from the Banking and Financial Services Committee.

Thank you for your attention to this matter.

Sincerely,

BARBARA LEE,
Member of Congress.

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

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON BANKING AND FINANCIAL SERVICES

Mr. FROST. Mr. Speaker, I offer a resolution (H. Res. 351) and I ask unanimous consent for its immediate consideration in the House.

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

The Clerk read as follows:

HOUSE RESOLUTION 351

Resolved, that the following named Member be, and is hereby, elected to the following standing Committee of the House of Representatives:

Committee on Banking and Financial Services: Mr. Ackerman of New York to rank immediately after Mr. Watt of North Carolina.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF RESOLUTION AGREEING TO CONFERENCE REQUESTED BY SENATE ON H.R. 2990, QUALITY CARE FOR THE UNINSURED ACT OF 1999

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 348 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 348

Resolved, That the House disagrees to the Senate amendment to the bill (H.R. 2990) to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts; to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage; and for other purposes, and agrees to the conference requested by the Senate thereon.

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

Mr. GOSS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from Rochester, New York (Ms. SLAUGHTER), my colleague and friend on the Committee on Rules, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate on this subject only.

This resolution before us, Mr. Speaker, does two things. It provides that the House disagrees with the Senate amendment to the bill, H.R. 2990, the Quality Care for the Uninsured Act, and it provides that the House agrees to the conference requested by the Senate.

While this may seem arcane or inside-the-Beltway talk to folks watching at home, the translation is that it allows us to move the process forward on health care reform. That is what we are doing, going forward on health care reform as promised. We can go to conference with the Senate to try to resolve our extensive differences and hopefully to improve the lives of our constituents if we can pass this resolution.

Because H.R. 2990 was not reported by a committee of jurisdiction, no motion to go to conference could be authorized by a committee. While these

motions are usually done by unanimous consent, the minority declined to agree to the traditional process, so here we are with this resolution this evening.

I am concerned that the other side of the aisle seems to prefer conflict and confrontation over progress on health care reform. We did pass H.R. 2990 less than a month ago. I would point out it was certainly during the most hectic budget and appropriations season that I recall in a while, and, yet, the minority still objects and protests that we should have appointed conferees earlier. I would point out this is the same minority that was complaining not 2 hours ago on the House floor that we were moving legislation too rapidly. Hopefully we will get something right in their eyes before we end the 106th.

Mr. Speaker, arbitrary time lines and partisan spin games indicate to me that the Democrat minority leadership is not presently really interested in helping more Americans get health insurance because health access is a big piece of this. While they say they are interested in joining our efforts to improve the quality of care for Americans in HMOs, they, instead, drive an agenda of gridlock, of conflict for the sake of conflict, of trying to stall to give some credibility to the minority leader's publicly repeated spin that this is a ''do-nothing'' Congress.

Well, Mr. Speaker, we reject this sad and cynical approach of doing the Nation's business, especially on something as important as health care. Speaker HASTERT should be commended for keeping his word, for keeping the process moving forward, which is what it is doing.

This resolution is another clear signal that we are committed and serious about health care reform and that we are interested in more than just the next 30-second sound bite.

I would point out that we have had recently a very fine debate in this House on the subject of health care, patient protection, and access. We have come up with a piece of legislation that is significantly different than the other body's. Obviously we need to continue to work forward to sort out those differences. That is what this resolution allows us to do. I am urging a yes vote on this noncontroversial resolution.

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

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman from Florida (Mr. GOSS), my good friend, for yielding me the time; and I yield myself such time as I may consume.

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

Ms. SLAUGHTER. Mr. Speaker, I rise to speak on the rule governing this motion to go to conference on H.R. 2990, what the majority is calling the Quality Care for the Uninsured Act of 1999. Many of my friends on the other side of the aisle do not want a Patients' Bill of Rights. They have scrubbed those words from the title of the bill and have assigned it a bill number intended to disguise its heritage. But in, amongst everything else, there is a Patients' Bill of Rights, and this is an extremely important motion.

The American people have spoken with a clear and compelling voice. They want reform in managed care, and they want protection from denials and delays which literally threaten their quality of life.

This House responded in overwhelming fashion passing the Norwood-Dingell managed care reform bill by a 275 to 151 vote margin. It was a genuine rout, a convergence of political courage and public support resulting in a good bill which will do the right thing by the American people.

In fact, it was a little too good for our friends who want to scuttle the HMO reform legislation. They are playing their ace in the hole, a parliamentary procedure which combines this very agreeable HMO bill with H.R. 2990, a very disagreeable bill which barely passed the House.

But the trump card will be the will of the American people. They will no longer tolerate being denied access to specialists or to clinical trials. They will not tolerate having medical decisions made by bureaucrats with a clipboard instead of a physician with a stethoscope. They are ready to make a stand. Those of us who voted for the Norwood-Dingell bill are standing with them.

Earlier this year, the other body passed a bill which pales in comparison to the House version. The House needs to send a strong, clear message to the conference committee that it should stand by the Patients' Bill of Rights which the House passed, that we should refuse to swallow the poison pills intended to kill this bill.

Mr. Speaker, I also want to take just a moment to suggest that the conference take action on the vital issue of preventing genetic discrimination in health insurance. The Senate bill at least mentions the issue. The House bill is silent. But this is an issue that must be heard.

Mr. Speaker, I humbly suggest that this is the next frontier of the health care debate. In the next few months, the human genome map will be complete. We are entering an era where we can know whether a person has a gene which might result in conditions from Alzheimer's disease to breast cancer.

This gives us tremendous potential to act in a preventive manner, but this is a double edged sword. If insurance companies are able to use this information against people, if they find out that one has the potential for a disease that is expensive to treat, and they thus deny the coverage, then the advances in research will cut the other way in a very cruel fashion.

□ 1900

I have authored legislation to prevent discrimination based on genetic information, and I offered with my good friend, the gentleman from Ohio (Mr. NEY), an amendment to include such protection in this bill. But the Committee on Rules declined to allow the House to have that debate. Thus, the House bill is perilously silent on this issue. I encourage and hope that the House negotiators will work to improve the genetic discrimination protections included in the Senate bill and protect every American.

Mr. Speaker, let me conclude by saying that we are going to insist that the conferees remain true to the bipartisan vote on this floor in favor of a real patients' bill of rights. I have compared this debate to a card game, and here the majority may very well refuse to even deal a hand to the people who support the Norwood/Dingell approach by refusing to give the supporters of the bill a seat at the conference table. That would be an insult to the Members of this House who represent the millions of Americans who want action on managed care reform.

It has taken far too long to get to this point in the debate. The other body passed a bill earlier this summer; we passed a bill a month ago. The other body appointed conferees 2 weeks ago; the majority in this House is just getting around to it. Maybe it has taken that long for the majority to try to stack the deck, but I am betting the American people will not let them get away with it.

Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. MENENDEZ).

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

Mr. MENENDEZ. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise in opposition to the rule, and I rise in strong support of what will be the Dingell motion to instruct conferees that will follow, should the rule pass. This motion would guarantee protections for all Americans in managed care plans.

The Republican leadership's strategy has been obvious since this debate began: delay, dilute, and deny.

First, they have pulled out every obstacle in the Republican play book to delay consideration of any patient protections. Then, once the Republican leadership realized they were losing that battle, they moved on to plan B, which was to dilute meaningful reform with a watered down bill they passed in the Senate. Again, the American people overcame the Republican opposition, and we won passage in the House of a strong patients' bill of rights sponsored by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Georgia (Mr. NORWOOD).

The bill had overwhelming bipartisan support both in Congress and across this country. But even this overwhelming support has not stopped the Republican leadership. They have simply moved on to another phase in their strategy, denying supporters of the

Norwood/Dingell bill a representative voice on the conference committee and creating a bill that is not supported by the bipartisan majority of this House or by the American people.

I must admit the Republican leadership has been successful in one aspect. Their strategy continues to protect their generous industry contributors. But we will continue to work to overcome whatever obstacle is thrown our way and protect the hard-working American families who are being denied health care coverage in this process who are denied the best advice of their doctors and the ability to enforce those rights we seek to provide.

We will have a meaningful patients' bill of rights, and we will do so with the help of the American people, who have spoken very clearly and very loudly that they do not want to see any more loved ones have to suffer under the present system.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. WISE).

Mr. WISE. Mr. Speaker, I prefer that major pieces of legislation be worked out on a bipartisan basis, but it is clear that it is the Republican leadership that controls this House; and it is clear that it is the Republican leadership, regrettably, that is delaying getting this bill to conference.

The House of Representatives passed this important patients' bill of rights 4 weeks ago, and yet has not yet gone to conference with the Senate so that we can get passage of a final bill. Four weeks ago. If this were a patient awaiting surgery, this would be an offense even under the nonexistent patients' bill of rights, even under managed care as it is today. This is shameful. So that is why it is so important that this bill that is now before us go to conference.

Clearly, we need a patients' bill of rights in this country; 200,000 citizens in West Virginia alone in HMOs, and thousands more in managed care plans, need an appeals process. We need to make sure that they can see the specialists that they have been working with. We need to make sure that they have more choice, particularly in choosing their OB-GYN's and their pediatricians.

So why can we not get the Republican leadership to permit this bill to go to conference? It is a shame that we have to come to the floor like this. But if we have to keep forcing it, we will, because the American people are quite clear: they want a patients' bill of rights. They want to make sure in their managed care plans they have rights. They want to make sure that they have some choice. If they can choose a mechanic who works on their car, they ought to be able to choose the doctor that delivers their baby or looks at their children.

That is what this bill is about, and that is why we are trying to force this vote. We are determined to get this bill passed, a patients' bill of rights for all Americans, Mr. Speaker.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentlewoman from New York for yielding me this time, and, Mr. Speaker, I think that we should take this particular motion to instruct conferees to go to conference as a step forward.

I hope it is a step forward. I hope it is a response to 80 percent of the American people who have asked us repeatedly to give them HMO reform. I hope it is a response to many of us who procedurally were so anxious to get a patients' bill of rights that we signed a discharge petition, because we were not being heard by the Speaker of the House. Finally, we have gathered together to secure for the people of the United States a bipartisan patients' bill of rights, now called the Quality Care for the Uninsured Act.

Mr. Speaker, this bill is crucial, first of all, because it equalizes the relationship between patient and physician. It puts that relationship above the pencil pushers or the bureaucrats who would deny service. It allows us to escape the drive-by emergency room situations of which we saw the tragedies of in the case before us on the floor of the House when the young boy came here who had gangrene in both his hands and his feet. It also says to us, Mr. Speaker, that women should have the opportunity to have as their primary caretaker an OB-GYN.

The most important aspect of this motion, though, is to ensure that we do not put conferees on that are going to throw poison pills into this process. Put Republican conferees on who will work in a bipartisan way, who have supported this patients' bill of rights, who are part of the bipartisan effort. If we do that, Mr. Speaker, we will respond to the needs of the American people. We will respond to the disparate health care that I see in African American communities, in my community, where there are less people having access to health care because of this convoluted system that we have.

We need to fix the public health system. But right now we need to reform the current system. The HMOs need to be fixed. We need this quality care for the uninsured. We need this process because we need to ensure that we can fix this system that is not working for the American people.

In particular I want to emphasize again, as I was already stating, the inequity in access to health care and what happens when one cannot access quickly doctors, emergency rooms, and specialists. That is a denial of service, because someone says an individual cannot have the service. These are the kinds of things we hear when we go home to our districts.

So besides, as I said, fixing the public health system, which is another issue all together, besides fixing the disparity in health access, which is also another issue, we can do something today. And I would hope, Mr. Speaker, that we would do something, by ensuring that the conferees on this particular conference are those who will work together to get a common good; that is to pass a good health management reform bill that we have before us.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague for yielding me this time and allowing me to speak on the rule for appointing the conferees to the conference committee.

I am proud to have been a cosponsor of H.R. 2723. This was a bipartisan vote as it passed this House. I would hope our conferees, as they are named, would remember that this House sent that bill to the Senate with a strong majority. It was a bipartisan majority because it addressed the issues that dealt with managed care reform: an outside appeals process, obviously to eliminate the gag rule, also allowing where a reasonable person or a medical necessity could be included in there.

The most important, and I know this will be the toughest issue on the conference committee, was the accountability section in there. And, again, going on the experience that Texas has, it does not do any good not to have the ability to go to the courthouse. Because, ultimately, that makes the appeals process work.

In the State of Texas, in the last 3 years that we have had our bill, we have had actually about half the cases that are being taken to the outside appeals process are being found in favor of the patient. Even a little bit more, 51, 52 percent. But the important part is that the insurance companies then will let that person have that care that they need. And the ones who are losing, well, they have already laid out that they could not make a medical case even to the outside appeals, much less to go to the court. But without the threat of the courthouse there, if people do not have that right, then we do not have that appeals process.

And I think we will not have a lot of lawsuits filed. In fact, in Texas we have had, I think, no more than five; three by one attorney, I understand, in Fort Worth, Texas. So we have not had a groundswell of lawsuits.

I would hope our conferees would remember how strong this bill came out of the House and how it spent a whole day debating it. I know it is a hard issue, but for the people in our country, we need to make sure we stay as close to the House bill as we can. So I support this rule.

Ms. SLAUGHTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume, and would just simply say since this appears to be noncontroversial, I only heard one speaker across the aisle oppose the rule, and it would seem to me

that that would be confounding to that speaker's goal, which is to move the process. That is what we are trying to do. So I see no justification for opposing this resolution, if we are trying to move the process forward, and I believe we all are trying to do that, because I agree we have had a great debate in the House about that; and we have come up with product, and it is now time to deal with the other body.

I would point out that the product we have come up with provides for both patient protection and access for those 40-some million Americans who do not have the blessing of any kind of health insurance. And I think that that is a very strong menu for consideration at the conference.

I do think we have lived up to our promise to move the process forward, in my view in a very rapid way, given the way most things move around here.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HAYES). The Chair will appoint conferees tomorrow.

APPOINTMENT AS MEMBER TO ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER pro tempore. Without objection, and pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), and upon the recommendation of the majority leader, the Chair announces the Speaker's appointment of the following member on the part of the House to the Advisory Committee on Student Financial Assistance for a 3-year term to fill the existing vacancy thereon.

Ms. Judith Flink, Illinois.

There was no objection.

□ 1915

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HAYES). Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Idaho (Mrs. CHENOWETH-HAGE) is recognized for 5 minutes.

(Mrs. CHENOWETH-HAGE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. DIAZ-BALART) is recognized for 5 minutes.

(Mr. DIAZ-BALART addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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

(Mr. MILLER of Florida addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

DAY OF HONOR 2000 PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. BROWN) is recognized for 5 minutes.

Ms. BROWN of Florida. Mr. Speaker, I come to the floor today to share my support for the Day of Honor 2000 Project, which will give long overdue recognition to the 1.2 million invisible African American World War II veterans.

During the Second World War, these valiant African American soldiers were waging a war on two fronts. They fought gallantly beside their comrades, saving the world from the evils of fascism while battling the bigotry and racism that was still prevalent in the United States military. These same African American war veterans continued their fight against racism at home by forming the grassroots of the civil rights movement.

In my State of Florida, we have the oldest veteran population in the Nation. Unfortunately for these veterans and veterans all across the country, the VA budget continues to be underfunded, causing them to be denied the health care and services they need and deserve.

As our aging veterans population declines, we need programs like the Day of Honor 2000 to remind us of the sacrifices African Americans made to protect their freedom they now enjoy.

I wish Dr. Smith and the other leaders of the Day of Honor 2000 Project the greatest success in portraying the honor and dignity displayed by our African American World War II veterans. These efforts and accomplishments have been ignored for far too long, and I look forward to sharing their achievement for the people today and for the generations to come.

SITUATION IN HAITI

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

Mr. GOSS. Mr. Speaker, I had not intended tonight to bring this subject forward, but the situation in Haiti has become so egregious that I think it is necessary to have a series of statements to alert the American public to what has happened.

I feel very sad about the people in Haiti. It is a country that I think has great promise, and it is a country that wishes very much to join the commonwealth of democracies in this hemisphere. Unfortunately, all our hopes seem to have dissipated because of events that have taken place in that country in the past few years and an increasing trend towards self-destruction.

In fact, I daresay if there were a case study of a failed foreign policy of the Clinton administration, Haiti would probably be the first example. And I am sorry to report that.

I think the administration first lost sight of what went wrong in Haiti when they lost sight of the fact that the solution to democracy in any country is the people going about the business of looking after themselves, having accountability and reliance for their own activities on behalf of their community, their country, and putting forth their own social value message about what they stand for and what they want to be.

When another country comes in and tries to do that job or intercedes, and did we ever intercede in Haiti, we sent something like 20,000 troops down there initially armed but, fortunately, at the last minute turned into a non-armed invasion force, as opposed to an armed one, and we spent somewhere between $2 billion and $3 billion, that would be billions of dollars of taxpayers' money, in Haiti in the past few years.

All of that has come to a situation today where, sadly, we are looking at a country that has no legislature. The legislature has been suspended. It would be as if Congress were closed down in the United States of America and the Senators and the Representatives were not allowed to come to Washington and come to this building, the United States Capitol, and go about their business.

I know there are some that would perhaps jokingly say, well, not a bad idea from time to time, with some of the things that happen in Congress and some of the things we do. But the fact of the matter is Congress is a treasured institution and a vital part of our constitutional make-up in this country and a vital part of our Government.

It is in Haiti, too. It is meant to be in any country. They have got to have a legislative branch, a voice for the people, people's voices clearly expressed by representatives of one form or another. Now that has been closed in Haiti.

Equally important in any shared power in a democracy is a judiciary system of some type. And I am sorry to report that a judiciary system which was always feeble and quite weakened and subject to some corruption because there was not much pay involved in being a member of the judiciary in Haiti is even more enfeebled than it was before. It is a system that is broken down. It is not even dysfunctional. It is nonfunctional.

Sadly, a critical part of that judicial system would be the law enforcement system that people rely on in Haiti for law and order. That would now be the police force, the HNP. I am very sorry to report that the HNP recently lost its minister, who was, I gather, forced out of the country of Haiti for political reasons and because he was not kowtowing to the wishes of the behind-the-scene de facto dictator of that country.

So, consequently, we have a very thin reed to lean on when we talk about law enforcement, which is the Haitian National Police. We understand that the incidence of drug use and the incidence of drug smuggling and drug trafficking has expanded very considerably and that, in fact, Haitian citizens and visitors, we have many Haitian Americans who spend time in both the United States and in Haiti, are reporting alarmingly and increasingly that there is not sufficient protection and law and order in Haiti for them to go about any reasonable business, particularly after dark. And certainly if they are involved in any political expression, that is very dangerous.

I am sorry to say there has been a continuing incidence in increased levels of political assassination, intimidation, and harassment, so much so that a former senator from Haiti has come to this country and I recently visited with him and he explained to me some of the very serious problems that are ongoing there, which confirm many of the other reports we are getting from citizens, visitors, business people and so forth that the corruption has become so bad it is very hard to get a loan to do any type of business in Haiti. So even if they want to help out and provide jobs and quality of life, the opportunity is not there.

This is a subject that I will visit again this week in other 5-minute special orders.

TRIBUTE TO REVEREND DR. C.J. BROOKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise to pay tribute to an American citizen of humble origin who developed himself into a scholar, a great preacher, an inspirational leader, a person who was a developer of people, as well as a builder of institutions.

The Reverend Dr. C.J. Brooks was born in Monticello, Arkansas, on February 1, 1934. Being an only child and living in rural America, he developed a great relationship with his dog and other creatures of the animal world.

As young Cleodus grew up in a Christian home, he developed an early interest in preaching and often practiced on his dog and the other animals who followed him around.

Cleodus attended the Drew County High School at the age of 17, realized that he wanted to spend the rest of his life preaching and teaching the gospel. He was licensed and ordained that same year.

After high school, he attended the Morris Booker Memorial College in Dermott, Arkansas, which is about two blocks from my father's home and where my father continues to work, although he is 88 years old, and he never misses a day from going there to do his volunteer work.

He also attended the Arkansas Baptist College in Little Rock, the University of Heidelberg, in Heidelberg, Germany, where he served in the Air Force from 1954 to 1957.

Upon his return, Reverend Brooks attended Arkansas A.M. & N College in Pine Bluff, Arkansas, where he earned his bachelor of arts degree and graduated in 1961.

I might add that Cleodus and I were classmates and he was the president of our freshman class.

Before coming to the Shiloh Missionary Baptist Church in Chicago, Reverend Brooks held pastorates at the Sunset Baptist Church in Texarkana, Texas; Mt. Carmel Baptist Church, Warren, Arkansas; Rosehill Baptist Church, Dermott, Arkansas; and the New Hope Baptist Church, at Chicasaw Plantation in McGhee, Arkansas.

In addition to leading and guiding the Shiloh Baptist Church from 1969 to his death in 1999, Reverend Brooks was an instructor for the Illinois Baptist General State Congress of Christian Education, instructor for the Greater New Era District Baptist Association, Parliamentarian of the parent body of the Illinois Baptist State Convention from 1990 to 1999, and treasurer of the Greater New Era District Association.

During his 30-year tenure at Shiloh Baptist Church in Chicago, Reverend Brooks developed a reputation for being an astute and creative leader. Under his tutelage, the church moved into a new facility, paid off all of its mortgages, developed the Board of Christian Education Ministries, instituted a full service missionary department, a weekly food and clothing ministry, a young people's department, and he personally served as mentor to many young persons, several of whom followed him into the ministry.

On March 25, 1991, the Shiloh Baptist Church Board of Christian Education conferred upon him the Doctor of Divinity Honorary Degree.

Yes, C.J. Brooks, born in rural Arkansas, went from the back roads to the high roads, became a tremendous scholar, great teacher, one of the first leaders that I ever knew, the leader of our freshman class in college, and he continued to lead the rest of his life.

C.J., it was a pleasure knowing you. You have done yourself and your family extremely well. I say may you rest in peace and may the memory of your being always rest with your wife, Carrie, and the members of your church.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

(Mr. METCALF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

(Mrs. JONES of Ohio addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

SAVING SOCIAL SECURITY FOR THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Georgia (Mr. KINGSTON) is recognized for 60 minutes as the designee of the majority leader.

Mr. KINGSTON. Mr. Speaker, tonight we need to talk about pizza, not just any pizza, but pepperoni pizza. I mean the hot, juicy, fresh-from-the-oven, thick Friday-night, after-the-football-game pepperoni pizza.

Because if you are like millions of Americans and you engage in that habit on weekends and other nights, you probably have great comfort in knowing that that pepperoni pizza was inspected by the United States Department of Agriculture to make sure that the pepperonis on that pizza were fresh, clean, and pure. I am glad that they do that, because food inspection is safe.

Now, if you have a vegetarian in the family and that person wants just the cheese pizza, USDA cannot inspect that one. That pizza is a special pizza.

□ 1930

That pizza is inspected by the Food and Drug Administration. Now, you may be saying to yourself back home, Wait a minute. You mean to tell me if I have pepperoni on my pizza, the Department of Agriculture inspects it but if I have a cheese pizza, the Food and Drug Administration inspects it. Why is that? Is that not inefficient? Is that not a duplication? I would say yes. And if you are asking that question, you are probably in the great majority of people in the United States of America from Miami to Maine to California and back, but there is one great exception and that is this place called Washington, D.C., because inside the Beltway of Washington, D.C., people think differently. They think, ''Pro-government, grow government, grow your

agency, grow your department and then along the way if you create a little waste, don't worry about it.''

Well, we have got an interesting phenomenon that the Congress is faced with tonight, Mr. Speaker, because we are in what I hope is the home stretch of the budget negotiations. In these budget negotiations, you have two schools of thought, that school that wants to spend more money and that school that wants to spend less money. Now, both schools of thought, I am sure, are good people. They both want a better world for our children. They both want security for our seniors. They want the uninsured to be insured and the unemployed to be employed and they want to make sure the uneducated get educated and those who have need, they want those needs answered. So I would say both sides are good people. But one side wants to spend more money. Now, the question is, where does that money come from?

Well, we are in a situation, Mr. Speaker, where the only place to get new money in this town is Social Security. We on the Republican side of the aisle have said to our colleagues, ''We don't want to spend Social Security money on non-Social Security surpluses. And it is time for Washington to stop that habit.'' There is plenty of waste in our budget, such as the pizza program that we could get some additional savings out, so that the kids who need public services can get those services and the seniors can get them and the children can get their education. We can do this, but we are going to have to squeeze a few pennies out of the dollar. In fact I say few, only one penny. Let me show my colleagues a chart, Mr. Speaker.

This chart, Mr. Speaker, shows what we are trying to do. We are saying in $1 to the United States Government, we want you to save one cent. That is not hard to do. I know it is not hard to do because I have lived on budget. I have got four children, two teenagers, then two children who still love me, and if you are the parent of a teenager, you know what I am talking about. My teen kids are very expensive and my little kids are very expensive, too, and I am not talking about buying clothes for them, I am talking about fixing the drier, getting a new refrigerator, getting new tires for the car because driving the car pools back and forth. That is real expensive. So it is not unusual at all at the end of a month or the beginning of the next one for my wife Libby and I to sit down at the table and say, ''Okay, we've got to save some money.''

Where are we going to come up with some money? Usually on $5, we have got to come up with 2 or $3 worth of savings and we have to forgo nice things. My daughter, Mr. Speaker, is 16 years old. She thinks I am the worst dresser in the world. I might be except my dad is still alive and I still dress better than he does. But I say to my daughter, ''Hey, look, I used to dress well, until I had children, and I cannot afford to anymore. But you ain't looking too bad. I see the nice clothes you're wearing to school.''

But we have got to sit around the table, Mr. Speaker, and find money in our savings, in our expenses. All we are asking the Federal Government to do is the same thing, get $5 and find a nickel out of it. Is there anybody in the sound of my voice who could not do that if you had to? If you had $5 and you had to come up with a nickel savings, could you not do that? We do it every day. Do you want the large drink or the medium-sized drink when you go through the McDonald's fast food line? ''I don't know. I'm not sure what the money looks like.''

Do you want the large French fries or the small French fries? Do you want lettuce and tomato on your sandwich? ''I don't know. Is it extra?'' Should we pump the gas here at $1.07 a gallon or move down the street where it might be $1.05 a gallon? This is what the American public does every single day all over the country, except in Washington, D.C., where asked if you can come up with a penny out of a dollar, it becomes impossible. Let me show you proof of this.

The President of the United States has a Cabinet. Those are his key advisers. One of the Cabinet members who has been asked to try to come up with a penny on the dollar is Secretary of Interior Mr. Babbitt. He was in a discourse with a reporter the other day, I say the other day, I am talking about October 27, so it was last week. The reporter said, ''Is there no more waste in government in your departments?'' A simple question. ''Mr. Secretary, you're telling us there's no waste in your department.''

Secretary Babbitt, and I quote, right here on the chart: ''Well, it would take a magician to say there was no waste in government and we are constantly ferreting it out but the answer,'' remember, the question is, is there no more waste, ''but the answer otherwise is yes, you've got it exactly right.''

Ladies and gentlemen, I just want to ask you this: If you believe that there is not waste in the Department of Interior, I would like you to e-mail me and tell me your story, because I have never gone to a government business or even a private business where I could not find a way to save some money. I mean, it might be as unimaginative as turning off the lights a little earlier at night. It might be as unimaginative as putting on a valve on some of the water faucets. It might be as unimaginative as having to do a swing shift instead of paying the overtime all the time. I am not sure what the best solution is for the Department of Interior, but I know this: As somebody who sits on the Committee on Appropriations overseeing it, they have a lot of needs, and I can promise you, they have a lot of good projects, and they do not waste lots and lots of money, but I would still say to that very good department that runs our National Park Service and our Fish and Wildlife, ''You can still find a penny on a dollar. I know you can. You're good people, you've got that ability, so let's don't fool ourselves. But if you don't, where is the money going to come from?'' And the money is going to come from Social Security.

Now, imagine, if you will, that we are in a room that is the size maybe of a triangle, and I am kind of thinking out loud on this, Mr. Speaker, but on one side of the triangle, you have a position staked out and that position is no tax increase. Then on the other side of the room you have a position that says you cannot take the money from Social Security. The other point in the room inevitably says you have got to cut your spending in order to balance the equation.

Now, there are those in this body who still think Social Security is a cash cow for purposes that do not have anything to do with Social Security. In fact, the President of the United States in January in his State of the Union address stood right behind me in the well of the House, Mr. Speaker, right in front of you, and says, ''There's going to be a surplus in Social Security. Let's protect 62 percent of it.'' Well, why not 100 percent? And most Members of Congress opposed the President on spending the other 38 percent of Social Security and said, ''We're not going to do that. We're going to preserve 100 percent of it.'' And the President did not like that idea, but we pushed and now we have not spent one nickel of Social Security.

The President tried a tax increase. The tax increase fell on the floor of the House by a vote of 419–0, Democrats and Republicans saying ''no'' to a tax increase. So now you have got to go back to cutting the penny out of the dollar. That is a savings. I had mentioned the pizza thing, but it does not stop there. Ben & Jerry's ice cream gets this program, government program where they can spend $800,000 exporting their ice cream and advertising overseas. I think it is great for people overseas to have the opportunity to munch down on good old Ben & Jerry's, but I do not think that the taxpayers need to be paying for a private business to do that.

Another example, the President went to Africa last year. I am glad he is traveling and I think it is important to keep our international relations up, but who were the 1,300 Federal employees he took with him to Africa at a cost of $42.8 million? This was not a military exercise. This was good will. One thousand three hundred people to Africa at a cost of $42.8 million. It is absurd. Under our radical plan, all he would have to say to the 1,300 is cut it out, cut it down 1 percent, 13 of you will have to stay at home. I know the gentleman from Colorado has joined me and he is not going to like what I have to say probably, but the mayor of Denver went on the African trip. I want to know, what is Colorado to our Africa policy? Not to pick on your lovely

State where my sister and my mother live, but I can tell you one thing, that if the good people of Colorado were interested, then they ought to pay for their own Denver mayor to go to Africa.

I feel the same way about the President's trip to China. He took 500 people to China at a cost of $18.8 million. Who were the 500 people? Why did they need to go? I know the First Lady took a lot of members of her family and friends, but why not say, okay, some of you have to stay at home next trip, and that is not a radical idea. But if they do that, you can save Social Security. Let me yield to my friend from Colorado.

Mr. TANCREDO. I thank the gentleman for yielding. I also thank the gentleman for being as adamant as he has been and prolific in terms of the information he has provided for the American public on this issue. Certainly I should tell the gentleman that I had no input into the decision made by the mayor of Denver to go on that trip and certainly there have been no positive ramifications of that trip, to the extent that I am aware of it, anyway. I am a freshman and have only been here now for about 10 months. There are a lot of things that seem peculiar to me and a lot of things that when I come here and try to go home and then explain to my constituents about what went on and how this debate proceed on various issues, it is sometimes hard for them to understand it. I find myself often in a situation where I will be listening to the debate on this floor or in the committee and there is something about it that just does not ring true. You say to yourself, now, how would this play, how would this debate play out? What if I had to go home and explain this particular debate to the folks back home? And it really, when you think that to yourself while you are sitting there, it has this great effect on you, because it brings you back to reality. I do not know how many times I have said to myself in the last week or so, how would I go home and explain to folks the fact that I did not think that the Federal Government could afford to reduce expenditures by 1 percent? How could I do that?

There is a test I have, Mr. Speaker, and I think it is one you have paraphrased in a different way. I say, how would this play in the Arvada Republican Club? This is a group of gentlemen that have been meeting for years and years and years, gentlemen and ladies now, it used to be a men's club for a long time, it is now co-ed. I have been going to that club for 25 years, meeting on Monday mornings, in the Applewood area at a little restaurant. These are great folks, these are salt-of-the-earth-type people, and I think to myself, how would I stand up in front of them and say, ''In order to avoid the possibility of raiding the Social Security trust fund, we have proposed a plan to reduce spending by 1 percent, all agencies, and I think that that would be terrible. I think that that would somehow or other affect the operation of the government.''

How would they respond? I mean, they would look at you and say, ''Are you kidding? What plane did you just land on? Was it the one from Washington?'' Because no one out there, Mr. Speaker, no one out there in the heartland of America thinks for a moment that there is not 1 percent in waste, fraud and abuse. Most people would say that the figure is quite a bit higher than 1 percent, quite a bit more than 1 percent.

□ 1945

They are right. It is far more than 1 percent that we could save if we just put our mind to it.

Mr. KINGSTON. Let me claim back my time for a minute just to underscore your point. The Pentagon had to report as missing two $4 million aircraft engines, two $850,000 tugboats, and one $1 million missile launcher. Anybody seen the missile launcher? We are looking for one missile launcher, $1 million worth. And the tugboats, the missile launcher blew up the tugboats when they put the aircraft engine in it, apparently.

It is absurd. Erroneous Medicare payments waste over $20 billion annually. It is ridiculous.

One example that I think is absurd, in Washington, D.C., which is largely funded by the Federal Government, they appointed a group to find jobs for people who are on welfare. This group had no employment placement experience at all. They got a contract, this is Federal dollars we are talking about, $6.6 million, to place 1,500 people. One year later they had spent $1 million and placed 30 people.

I think the folks in Colorado would run you out on a rail if you said you could not find waste in government, as I know the people in Georgia would do to me, and most Members of Congress.

Mr. TANCREDO. The gentleman is certainly correct in that. And, again, it is one of those peculiar things that you run into as a freshman when you end up here and people argue with great fervor against a 1 percent cut. People suggest that it will be the end of civilization as we know it, that people will be thrown out into the streets, people will go hungry if we in fact were to try to reduce this huge budget expenditure by 1 percent.

But, you know, Mr. Speaker, I wonder sometimes whether or not people really and truly are concerned about the 1 percent cut, or they are worried about the possibility that this could start a trend. What if you could cut 1 percent and nobody could tell the difference? Did you ever think about that?

Mr. KINGSTON. I think the gentleman has raised a good point. I believe you could cut 1 percent and most people would not know the difference. It is interesting that here is a quote I wanted to bring up, when asked why Democrats will not support finding a penny out of every Federal dollar in waste, fraud and abuse, even when the defense budget is $1.8 billion higher than the President requested, the House Democrat leader, Dick Gephardt, responded, ''They don't want 50,000 to 70,000 people to be let go at the Department of Defense.''

Well, here is the President, his own budget was $1.8 billion less, and now we are asking them to find 1 cent on the dollar, and the Democrats are claiming it is going to lay off 50,000 people. What was their budget going to do? It is just absurd. Only in this town can you have these kind of conversations. Out there in common sense America, you know, this would have been resolved in August, and we would be home by now.

Mr. TANCREDO. If the gentleman will yield further, there is a situation that is analogous to this. I was appointed in 1981 as the regional director for the United States Department of Education, and I resigned my position in the legislature in Colorado to take that responsibility. One of the things we were told we had to do was to try to reduce the size and scope of the Department of Education to more accurately reflect its constitutional role. Well, of course, most of us realize that its constitutional role does not exist. There is not a single word in the Constitution about the Federal Government's role in education.

But, anyway, we began the process of reducing the size of the department. This was, as I say, September of 1981 when I took over the responsibility in Denver. Region 8, it is responsible for six States, Colorado, Wyoming, Montana, Utah, and the Dakotas. We interact with all of the State departments of education and with school boards all over those six States.

There were 222 people employed in the regional office at that time. In the course of about 4 years, because of budget cuts and transfers and a couple of other things, we were able to actually reduce the number of people in that agency, in that region, by 80 percent. We went from 222 to approximately 65, if memory serves. And, you know what? Here is the important point I want to make.

After that I would go to each one of those six States, to the chief State school officer and to the State boards of education, and I would say, By the way, have you noticed any difference in the service you get from our office, in the quality of the workload, the output, the quality of our work? Have you noticed any difference? And never once, not just with the State departments of education, I would give this speech all the time and I would say, Has anybody noticed a difference? We had gone down 80 percent and no one knows.

That was my point about the 1 percent reduction. The fear is that you could actually reduce the Federal Government by 1 percent, and nobody would know the difference. What would

that tell you? What would that tell people who actually want to see the Government expand constantly? It would say to them that we have got a problem here. People recognize it.

That is what I often say, when we, ''shut down the Government,'' this happened several times while I was the regional director of the Department of Education. The President of the United States, President Reagan at that time, and the Congress could not come to closure on the issue. We did shut down the Government at least twice, and it may have been three times. And, you know, I keep asking people, could you tell the difference? Did you know that in fact this happened?

So the frightening part of this whole thing is that you could do it, and nobody would know the difference. That is what scares some of my colleagues.

Mr. KINGSTON. Let me clarify and make sure people understand, you are not saying to shut down the government. You are saying just reduce.

Mr. TANCREDO. No one is even suggesting, not even the most ardent supporters of the President's plan or the ardent opponents of the 1 percent cut, have suggested this would mean a shutdown of government. I am saying if you did, and when it has happened, you wonder to yourself, who knows the difference?

Mr. KINGSTON. Let me read you another quote that is interesting. Deputy Attorney General Eric Holder, when asked if the administration's position is we should not reduce the size of the Federal budget, he responded, ''That would certainly be the view of the administration.'' That was a quote from last Tuesday, October 26.

You know, we are just saying get the waste out of here. I have got a quote right here from DICK GEPHARDT that was from October 24, 1999, and when asked about spending Social Security funds, he says, ''I understand there is a feeling now that since we have a surplus, and since we got to get ready for the baby-boomers, that we really ought to try to spend as little of it as possible, and none, if possible.''

Well, you know, that is leaving the door cracked. And, you know, again our budget says cut out the waste and you can do it.

A couple of other examples. I do not know if you are aware of this, but approximately 26,000 dead people receive food stamps to the tune of $8.5 million. That would feed a lot of live people. Maybe we should concentrate on those who are not dead and maybe more people would do better. That would be a little healthier.

Supplemental Security Income fraud, and this is a special, basically, payment to people, fraud that exceeds $1 billion a year, including a convicted murderer who has been on death row for 14 years and received $75,000 a year in SSI benefits.

Another example: the Government lost over $3.3 billion on students who never paid back their student loans. Then here is a story of a defense contractor who charged the Government $714 for an electric bell that was worth only $46.

All we are saying is let us go after this before we go after Grandma's Social Security.

I see we have been joined by the gentleman from Minnesota, the heart of Hormel and Spam country.

Mr. GUTKNECHT. Mr. KINGSTON, thank you for yielding and having this special order. I was listening in my office to this, and I really had to come over here for a couple of reasons. First of all, to just highlight how far we have come.

Since I came to Congress in 1994, in fact, next Tuesday we are going to celebrate the 5-year anniversary of the elections of 1994, November 8. We are going to have a class reunion. I am the class president now of that class. I am happy to report virtually all the members are coming back. It is going to be a great reunion.

But, because of that, I have been thinking a lot about what it was like in 1993 and 1994 when Washington believed that Washington had all the answers, whether it was talking about health care reform, we were going to have a government-run, State-run, Federal bureaucratized health care delivery system. And it was interesting, too, I need to make the point about that, when that was first introduced, it was supported by an overwhelming majority of Americans. But then they started to get the facts and public opinion changed.

We were talking then about larger and larger bureaucracies and more and more government spending, more and more government borrowing. Finally, the American people in November of 1994 said enough is enough, and they sent a whole new team of us, 73 Republican freshmen to Congress. They said, You know, we don't expect much from you, but at least balance the budget.

We said, If you will elect us, we will balance the budget by the year 2002, in 7 years. And let us go back and remind ourselves and some of our colleagues of what other folks were saying then.

The folks in the White House were saying you cannot balance the budget in 7 years. You might be able to do it in 10, maybe 8, but not 7. Well, then we went back and forth. But basically what we said is if you dramatically slow the rate of growth in Federal spending, if you begin to reform the entitlements, like welfare, that you can actually balance the budget and provide tax relief at the same time.

I remember the argument that we had about tax relief. You probably remember it well, and the gentleman from Colorado (Mr. TANCREDO) was in Colorado, but you remember some of the arguments raised. They said if you lower the capital gains tax rate, you are going to deny government the tax revenue. This is the quote used over and over again: ''You are going to blow a hole in the deficit.'' Remember that?

We lowered the capital gains tax rate; we lowered it 30 percent. On top of that, we said to every family in America, we are going to make it easier for you to raise your kids. We are going to give you a $500 per child tax credit, and that is now in effect, so that every family in America has more money to spend themselves, because we said that if you limit the growth in Federal spending and you allow families to keep more of what they earn, guess what? The economy will grow faster. And it has.

As a result, we did not have to wait until 2002 to balance the budget. We actually balanced the budget last year. On top of that, we did it for the first time in 40 years without raiding the Social Security Trust Fund. That was a huge milestone.

I know some are saying, Yeah, you balanced the budget. You didn't use Social Security, but what have you done for us lately? That is no small accomplishment. It was accomplished principally by dramatically slowing the rate of growth in government, by letting people keep more of what they earned, and allowing Americans to do what they do best, produce, consume, and create jobs. So the economy grew.

That is a huge accomplishment. But sometimes, though, we as Republicans talk in terms of dollars and cents, percentages, debits and credits; and we start to sound like accountants. Balancing the budget without using Social Security is really about generational fairness, because what it is saying to our parents is you are going to have a more secure retirement. It is saying to working people like ourselves, middle age folks, baby-boomers, the people who are actually working right now, it means you are going to have a stronger economy. And it means to our kids that they can expect a brighter future.

So it is not an accounting exercise; it is really about generational fairness. And that happened because we have slowed the rate of growth in government so that not only do we have the first balanced budget without using Social Security, here is another amazing statistic that most of our colleagues do not know, so I just assume that most Americans do not know it. But for the first time in my memory, I think in my adult lifetime, this year the Federal budget will grow at a slower rate than the average family budget.

In some respects that is an even more important statistic, because we are finally allowing families to catch up. For too long the Federal Government was growing at 2, 3, sometimes almost 4 percent higher than the rate of the average family budget. They could never catch up. All they could do is pay more and more taxes. That is why more and more families had to have both Mom and Dad working so they had less time to spend with their kids. All of a sudden you had more social problems.

□ 2000

So we have accomplished a great deal. What really got me excited when I listened to the gentlemen over there, when people say that we cannot find 1 percent of waste in the Federal bureaucracy, and we stepped up and we said, listen, Members of Congress, we have to lead by example, so we said, congressional pay raises should be on the table, as well.

Nobody else's pay raise is on the table. I want people to understand that. Nobody's social security cost of living adjustment is on the table, nobody's veterans benefits, just congressional pay. But I think it was the right thing to do. We have to lead by example.

Mr. KINGSTON. Mr. Speaker, I would ask the gentleman, is the White House or the executive branch's salary included?

Mr. GUTKNECHT. I do not believe they are included in that as well.

Mr. KINGSTON. I would ask the gentleman, has the President made the offer?

Mr. GUTKNECHT. I do not remember that he has.

Mr. KINGSTON. So the position on the social security money, do not cut spending?

Mr. GUTKNECHT. All I am saying is, we will lead by example, regardless of what the White House may do. That has been the example all the way through. When we said you have to reform welfare, we sent them a bill. They vetoed it. We sent a second bill, they vetoed it again. The third time, public opinion and the pressure of the polls forced the President to sign the bill. As a result, we had welfare reform.

As a result of that, we have got 50 percent fewer people on welfare today than we had just 4 years ago, 5 years ago. That is an amazing accomplishment.

But back to the story of waste. It bothers me when people with a straight face can say that there is not 1 percent worth of waste in the Federal bureaucracy. Try explaining that to any farmer in America. They are tightening their belts to the tune of 10 percent, 15 percent, maybe 20 percent over what they were receiving just a few years ago for their crops, and so the idea that they cannot trim spending 1 percent really outside of the beltway is not even a funny joke.

So I want to thank the gentleman for what he is doing, and I want to encourage the gentleman to continue to press this case in looking for ways that we can eliminate the waste, fraud, and abuse in the Federal budget.

At the end of the day it is easy to forget in Washington, it is not our money. We are spending other people's money. They work very hard. It is easy to forget, and my colleague mentioned one of my favorite luncheon meats which we serve every Thursday here in the Capitol. I have gone there where they make that luncheon meat. I have watched those people work. They work very, very hard for their money. I think we owe it to them to make certain that we do not waste it. For too long that has been the standard here in Washington. We need to change that standard.

Mr. TANCREDO. Mr. Speaker, if the gentleman will continue to yield, I want to thank the gentleman from Minnesota. I want to elaborate on the point he has made on how incredibly important it is that we have accomplished something so significant, and it has to be heralded. That is that we have not only been able to do economically what the gentleman has suggested, balance the budget far before we thought we were ever going to be able to, not raid the social security trust fund, but we have done something more important than that, I would suggest. We have actually changed the way people think and talk about the social security fund, trust fund.

Before, as the gentleman knows, since 1965, actually, or 1964, it was an accepted practice around here to spend all of the money that came in as a result of social security, FICA taxes, to spend it on government programs, not put it away for social security but spend it on welfare, and spend it, well, not all that much on the military, because that actually went down in the last few years, but spend it on programs.

But now we have the other side fighting on our turf. This is an enormous accomplishment. If we can get the people in this country to concentrate on the fact that social security should be held inviolate, that we should never be able to spend social security dollars on anything but social security-related issues and the trust fund itself, we will have changed the course of history in America, because we will have stopped the government from growing by about $2 trillion over 10 years just because of the way people think.

If they hold our feet to the fire, if everybody out there says, next time, next Congress, 5 years from now, 10 years from now, if they say, no, no, what are you talking about, spending social security trust fund money on something else; if all of a sudden that catches hold and they stop the Congress from doing that just because of public pressure, and frankly, there is nothing else that can stop us, we all know that, if they can do that, we will have accomplished an incredible thing for our children, our grandchildren, and for America.

Mr. KINGSTON. If the gentleman will continue to yield, I think it is historic in its own right that we are even having the debate about not spending the money.

Mr. TANCREDO. It is.

Mr. KINGSTON. Republicans, we have been guilty, and Democrats, they have been guilty, have spent this money in the past. But this Congress has not done it, and so the fact that we are having this dialogue is great.

Here is a chart from the Congressional Budget Office that certifies that we are not spending social security money. This is a number that came from the Congressional Budget Office or our congressional bean counters on October 27, last week.

It said, projected on-budget surplus, $1 billion, under the congressional scoring system. This is from a neutral third party saying that we have not spent social security money.

But again, this is historic that we have this opportunity. I kind of get a little bit charged up, and we do have some finger-pointing, some good bipartisan finger-pointing, in the morning, in the 1-minutes, where Members are saying, they are spending the money, they are not spending the money.

Well, it is good that at least we consider this debatable, because it has not been. Again, both parties have been guilty of it, but this Congress is different. It is such a great position to be in now. But we have to continue with the waste and abuse or we are not going to be able to have these bragging rights come adjournment next week or next month.

We have been joined by our good friend, the gentleman from South Dakota (Mr. THUNE). I know he has been a leader in cutting out fraud and waste in government, and also one who has insisted on not spending the social security money.

I yield to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Speaker, I thank the gentleman from Georgia for yielding to me. I am glad to join in with my friend, the gentleman from Colorado, and my friend, the gentleman from Minnesota, with whom I serve on the Committee on Agriculture. That is an issue that is important to our part of the world.

We have found within the existing budget resources we have the wherewithal to fund those important priorities. I do think it is important that we note in this whole debate that we are willing to fight the good fight, to continue this effort to make the Federal government smaller, make it more efficient, find those places in the budget that are wasteful, where the taxpayer dollars are not being used for the best return on the dollar, and guided by a very simple principle, which I think is what is so remarkable about the debate we are having this year.

That principle is this, that we are going to, for the first time in 30 years, not raid social security. I think that the American people whose retirement security, the trust fund, is ought to be delighted. I think this is really a cause for celebration in the Congress, because it is the first time it has happened in 30 years, and it is a tribute to those who have come before, people like the gentleman from Minnesota (Mr. GUTKNECHT), the gentleman from Georgia (Mr. KINGSTON), who came here in the previous classes of Congress and said, we are going to get this Federal budget under control and we are going to make those hard decisions to bring

Federal spending into control, and to a place that allows us to be where we are today, and that is the first balanced budget in a very long time.

I think that is historic. It is significant. We need to stay the course. As we all know, and I do well know now, having been here for 3 years, there is a tremendous inertia here in this city to spend money. It is the way it is. Washington spends money.

My dad used to say, when I had a dog that I could not get to behave the way I wanted it to, he would say, it is the nature of the beast. The nature of the Federal beast is to spend money. The only way we can tame that beast is to apply discipline. It takes discipline.

Those decisions are hard, those choices are hard. Yet I feel again very proud of the fact that we have been able to come up with a budget this year which meets all the important priorities: which actually spends more on defense; which beefs up our national security, which is a concern we have all had; which addresses those needs like law enforcement, education, and actually puts more into education than what the President requested in his budget, and yet does not go into or raid the social security trust fund.

In order to do that, what do we have to do? We have to come up with a 1 percent across-the-board reduction in discretionary spending, 1 percent off of all the array of Federal Government agencies and departments as they go through their budgets. They do not even have to look at program areas, they can do this in the form of rooting out bureaucracy and getting rid of a lot of the administrative waste that exists in the government.

I think the American people will believe, and I think most of us in the Chamber here this evening believe, Mr. Speaker, that we can find 1 percent, that we can find that 1 percent in welfare spending and root it out, and thereby allow us to protect our pledge and our commitment to the American people that we will not raid their retirement security.

I do not think Members can see this from there, but there is a chart there which essentially shows the same thing, but this is the amount of the social security trust fund which has been spent over the last 15 years. That chart drops off dramatically, and it is down to zero today because we again adopted as a matter of principle in this debate over the budget that we are not going to raid the social security trust fund, that that is too important to the future of the people of the country who make the investment, who pay the payroll tax at every check. They deserve to know with confidence and assurance that when the time comes, those retirement dollars are going to be there for them.

As this debate ensues, my understanding is that the President will in fact veto this legislation that we will send him, this proposal to reduce spending by 1 percent across-the-board, but I understand that he will be willing to sit down with us and to figure out exactly how we can fund the programs of government, and do it in a way that does not in any way jeopardize social security.

I think that is a critical point. I do believe again, as a matter of practice, in the last several years since the Members came to the Congress, since I joined the class and the gentleman from Colorado (Mr. TANCREDO) joined it most recently in the freshman class this year, there has been a conscious, deliberate effort to bring Federal spending under control, and do it in a way that allows us to shrink the overall cost of government, make it smaller, make it more responsive to the American people, and to shift power out of Washington, D.C. and back into the homes and families of so many Americans who I think have spent a lot of dollars over the years of their tax dollars.

They need to know, again with some degree of certainty, that those dollars are going to be set aside for their retirement security. We do that in this year's budget. I think it is historic, and I look forward to the debate that ensues.

Mr. GUTKNECHT. Mr. Speaker, as a member of the Committee on the Budget, what we are doing here, it is not only historic, it is very difficult. If it were easy to balance the budget, it would have been done 40 years ago. If it were easy to balance the budget without using social security, it would have been done a long time ago.

But we have lowered the bar on ourselves and made it more difficult to balance the budget by, for the first time in 40 years, saying not only are we going to balance the budget using the old way of keeping score, we are going to change the way we keep score.

That is the point the gentleman from Colorado was making. That is why it is so important, because once we change that in the minds of the American people and in the minds of the folks even here in Washington, that that now is off limits, all of a sudden we have changed the game for a long time to come. That is a very historic and important thing. But it made it more difficult.

A couple of things that made it even more difficult, because sometimes we forget it, and the American people certainly forget this, and I think many of our friends on the left would like to forget this, but part of what made it so much more difficult is we have had so many ''emergencies'' in the last couple of years.

It is not just about hurricanes and earthquakes and floods and droughts and pestilence and the other things that we have had for emergencies, but we have had an emergency in the farm community. It happened for a variety of reasons.

I know some of our friends say, well, it was all freedom to farm. Freedom to farm had nothing to do with the fact that we have had three consecutive worldwide surpluses, and crop prices and commodity prices have dropped through the floor. We had to respond to that. That was an extra almost $9 billion.

On top of that, we have been involved in something like 33 different military adventures over the last 7 years. One of them just in Kosovo and Bosnia has ultimately cost us $16 billion. That $16 billion was not accounted for in our original budget plans over the years.

A lot of our friends are saying, well, but even with that we had to use some gimmicks. I do not like the term gimmicks, but there are some things in the budget I wish we did not have to do. I wish we were not talking about a 1 percent across-the-board cut, though I think we should do it. I wish we were not talking about advanced funding or forward funding.

But the truth is the President put some of those things into his budget when he submitted it back in February.

Mr. KINGSTON. Actually, $18 billion comes right out of the Clinton White House budget. It is interesting that when the White House does it, it is sound accounting procedures, but when Republicans do it, it is a gimmick.

Mr. GUTKNECHT. The point is, we have all of a sudden been confronted with some expenditures, whether it was in agriculture or other emergencies here in the United States, and people say, what about the Census? The Census is not an emergency. That is correct, but do Members know what, for some reason, and it was an honest mistake I believe on the parts of all the negotiators, when we negotiated the balanced budget agreement in 1997 with the White House, which in itself was an historic agreement, and I was there the day the President signed it, but for some reason we did not include that $4 billion in our future spending plans, so some way or another we have to figure out a way to pay for it. Whether we call it an emergency or take it in regular spending, it still amounts to total spending.

What we have said is, we are going to limit total discretionary spending to about $592 billion. That is still a lot of money, and I am convinced in my bones that there is more than enough money in that budget to meet the legitimate needs of the Federal government and everybody who depends upon it.

There is not enough room in there for all of this fraud and waste and some of the things Members have been talking about. But the point I want to make is we have made it more difficult on ourselves to balance the budget because we have lowered the bar with the social security trust fund.

The President and some other factors have made it even more difficult because of Kosovo, because of Bosnia, because of emergencies, because of what is happening out in farm country.

□ 2015

But you have got to hand it to our leadership. They have found a way, and in some respects using creative accounting, I will admit that, but they found a way to make room for all those needs and requirements to take care of the legitimate needs of our veterans, take care of the legitimate needs of educations, funding education at a higher level than the President asked for, funding veterans programs at $1.7 billion more than the President asked for, actually finding more money for defense, trying to squeeze other areas of the budget.

Frankly, I am very, very proud of this budget; and I am very proud of this Congress, because we will have done something and hopefully started a new chapter for America that it will take many, many years to reverse. In fact, I hope it never goes back to the way it used to be.

Mr. KINGSTON. Mr. Speaker, I yield to the gentleman from Colorado (Mr. TANCREDO).

Mr. TANCREDO. Mr. Speaker, in Colorado, we passed several years ago, I think it was 1994, we passed something referred to as the Tabor amendment. It simply says that the government of the State of Colorado cannot spend more than it takes in, nor can it increase taxes by any more than a percentage equivalent of increase in population growth and inflation. That is it. If we take in more money than that formula allows, it must be returned to the people.

Now, first of all, during the course of that debate, we heard the same kind of things from the people opposing it as we heard from the people who are worried about this 1 percent savings that we are proposing here, that it could not happen, that government cannot operate under such constraints, that there would, in fact, be people out in the street, there would be people hungry at night, that essentially it would be the end of civilization as we know it.

Well, we passed this in 1994. Every single tax increase above that budget cap that is set now in the Constitution allowing growth only for population and inflation, and inflation has been very low, every budget increase at any level, State of Colorado, local districts, special districts, whatever, has to go to a vote of the people.

Now, what has happened, the people in their wisdom have accepted some things, have passed some budget increases, and have rejected many others. It was not as if there was a wholesale disregard. No, people understood very well that some aspects of government needed an increase and some did not.

But my point is this, that not only did we avoid the dire consequences that were suggested as a possibility if we were to pass such a draconian measure, but the economy has gone wild. Jobs increased tenfold. Every single good thing that could possibly happen in the economy has happened in the State of Colorado.

We are paying the price in a way because, of course, now we have the problems with infrastructure catching up to the economy's growth. But those are good problems to have. They are in the exact opposite of the kinds of things that people said would happen if we were to try to constrain ourselves.

I assure the American public tonight that if we took 1 percent off of next year's budget, that there would not be the kind of dire consequences that our friends on the left suggest would occur, that we can live within a 99 percent budget. We can do it. Believe it or not, America, it can happen.

Mr. KINGSTON. Mr. Speaker, reclaiming my time, we have about 3 or 4 minutes left, so I wanted to give everybody a chance to close. But one of the things I want to point out is that there are many Members on the Democratic side of the aisle who say it is hard to argue against 1 percent reduction. We think we can do it. We, too, do not want to spend Social Security. So it is really a matter of let us work through it with the White House and get this thing done because I think that so often we look at this as Republican/Democrat, but there is this Congress, legislative branch versus the executive branch.

But the vision is clear. Do not spend Social Security money. Do not increase taxes. But balance the budget through spending less. There is a lot of bipartisan agreement on it. What we need to do is finish the agreement up and leave town. I think the people in America feel a lot better when Congress is out of session rather than when we are in session.

Mr. THUNE. Mr. Speaker, if the gentleman will yield, I would also add, too, to what he just said that, another thing that is important, and I hear all across South Dakota when I travel the State is, why do you guys not do something about paying down the Federal debt?

That is something now for 2 years in a row we are actually going to pay down debt. The reason that we are able to do that is because, again, through the hard work of the American people and generating the surplus and to agree that Congress has any control over this, it is in the area of controlling fiscal or Federal spending and keeping the tax burden under control, which we did, and we reduced taxes.

The gentleman from Minnesota (Mr. GUTKNECHT) noted earlier that reducing the capital gains tax actually increased revenues and put us in a position now where we are running surpluses. But the reality, of course, again is that we would not be in this position if we had not exercised control over Federal spending.

It allows us to pay down Federal debt, which is a huge, huge priority, ought to be, so that for the next generation on whose back all of this is going to fall someday, we are actually lifting that load.

So there are a lot of awful good things in here. I think, again, in the interest of trying to do this in a responsible way, asking Federal agencies and departments to come up with 1 percent in savings, we have all heard about the illustration, some of my favorite ones, $850,000 for Ben and Jerry's ice cream to go to Russia and the $1 million outhouse at the top of Glacier National Park. Those are examples of things that we are talking about, finding that 1 percent that allows us to balance this budget without raiding Social Security.

That is a huge accomplishment. Again, at the same time, couple that with allowing us to pay down the Federal debt. So these are all things that are incorporated in this budget process this year, and we ought to do the best we can to resolve the differences with the White House and to go home.

Mr. GUTKNECHT. Mr. Speaker, if the gentleman will yield, just in summation, I would say that, really, the central questions are these: What are we going to do to guarantee our parents a more secure retirement, and what are we doing to make certain we leave our kids a legacy that we are proud of in terms of debt?

I think the answer is we have to dramatically control, slow and control the rate of growth and Federal spending. If we do that, then everything else gets so much easier. The economy is stronger, interest rates are lower, everything gets better.

We have made it clear, and if the President does not like our 1 percent plan or some of the other things, we have made it clear is simply this, we will not raise taxes. We will not raid the Social Security. We will not close down the Government. Everything else is negotiable.

We are willing to meet the President more than halfway. We are not saying our plan is the only plan. But we are saying we are going to stop the raid on Social Security. We are not going to raise taxes. We are not going to close down the Government. Beyond that, we will negotiate in good faith, and everything else is on the table. Really, it is about what kind of a future we are going to leave to our kids.

Mr. TANCREDO. Mr. Speaker, if the gentleman will yield for just a second, once again, I wanted to reiterate something that the gentleman from Minnesota (Mr. GUTKNECHT) said earlier, and it is so important to remember, that when we are talking about numbers here, people have a tendency to just sort of glaze over and say, ah, it is just numbers. It does not matter. But it does matter. It matters in people's lives.

What we do here, the actions we take here, the votes that we cast every day have an impact on what happens in the lives of Americans all over this land. If we can actually slow the growth of Government down, if we can reduce the amount that the Government would have grown in the next 10 years by $2 trillion, by simply holding Social Security sacrosanct, it is more than just a paper accomplishment.

It means lives will change. It means that people will be able to buy homes that would never have been able to buy a home because interest rates will go down. It will mean that people will be able to take vacations they never thought they could take. They will be able to leave to their grandchildren and children an estate that is worth something, worth real dollars, because the Government will not confiscate it all in the process. It actually matters when we talk about reducing the size and the scope of Government. They are not just words. They affect the way people live.

I want to say, as a freshman, once again, I am proud to be a Member of this Congress. I am proud to join my colleagues here who have done yeoman's work before I ever got here to get us to the point where we are today. I realize I can take very little credit for what we have accomplished. It is a result of the efforts that the gentlemen here, my colleagues, have put forward over these years to get us where we are.

I simply want to tell my colleagues that, I mean this from the bottom of my heart, I thank them all for their patriotism, for their love of America, for what they have done for the country.

Mr. KINGSTON. Mr. Speaker, I yield to the gentleman from South Dakota (Mr. THUNE).

Mr. THUNE. Mr. Speaker, I cannot add to that. But I would say, on behalf of the people that I serve in the State of South Dakota, that we believe, again, that, as a matter of principle, that the Federal Government is too big, and it spends too much, and that we can find ways to continue to reduce the cost of government, making it more efficient, find that 1 percent in savings that enables us to protect and preserve and safeguard the retirement security for every South Dakotan, for every American by not having to dip in and to raid the Social Security Trust Fund. That is a principle that is nonnegotiable.

I hope that in these negotiations that will come up now with the White House that we can come up with a solution that serves the people of this country who depend upon programs that are essential but at the same time allows us to balance this budget, stay on the track that we are on, the course that we are on, and do it in a way that keeps us from going into Social Security, which is a change, a long change, a departure from precedent that has been on the books for a long time, again, as the gentleman from Minnesota (Mr. GUTKNECHT) noted, going back to the 1950s, I think, where we actually are going to be able to do this and say, that going into the new millennium, the new century, that this is the new way of doing business around here; that when we create a trust fund, that we want to keep it for that purpose.

So, again, I thank the gentleman from Georgia (Mr. KINGSTON) for yielding; and, hopefully, again, we will wrap this thing up soon and get this process completed.

Mr. KINGSTON. Mr. Speaker, let me thank the gentleman from South Dakota (Mr. THUNE) and the gentleman from Colorado (Mr. TANCREDO) and the gentleman from Minnesota (Mr. GUTKNECHT) for playing a part in this vital negotiation and this great debate that we are having, and it is worthwhile.

We are trying to save Social Security. We are trying not to increase taxes. We are trying to ferret out waste in government. Who are we doing it for? We are doing for that family that drives an extra block to buy gas for $1.05 a gallon instead of for $1.07. We are doing it for that family who pushes to order medium Cokes instead of large Cokes at restaurants, chicken instead of steak. We are doing it for that family who gets three quotes a year on their automobile insurance. We are doing it for a family that does not buy a new suit unless the clothes are on sale. Finally, we are doing it for that family who will never buy cereal unless they have a 20-cents-off coupon that they clipped out of the newspaper.

That is what this is about, 1 cent on the dollar. It is not hard. American families do it every single day. Congress can certainly do its part here in Washington, D.C.

SOCIAL SECURITY

The SPEAKER pro tempore (Mr. HAYES). Under the Speaker's announced policy of January 6, 1999, the gentleman from North Dakota (Mr. POMEROY) is recognized for 60 minutes as the designee of the minority leader.

Mr. POMEROY. Mr. Speaker, I commend my colleagues, good men, good men all, and certainly articulate advocates for their position. I am pleased to be able to represent a different view because, quite frankly, there is more to this story than we have just heard, and I want to represent it in the next hour.

What I will do in the course of this hour is spend most of the time talking actually about the Social Security program, its vital importance to America's families, the need for addressing and strengthening Social Security, and also putting in perspective the absolute baseless attacks being waged by the majority on the minority relative to this important program.

At the outset, however, having sat patiently while the preceding side was making their points, there are some things that, frankly, must be said to put their presentation in perspective.

I want to start by saying that here on November 2, we are now more than 1 month into the new fiscal year. That fiscal year, of course, starts October 1. That is the time when Congress and the President are to have all the new spending bills in place, funding the Government for the new fiscal year. It is a 12-month fiscal year. We are 1 month into it.

We do not have all the spending bills in place. In fact, a very substantial portion of the Federal budget has not been put in place.

Why is this? Well, frankly, the responsibility falls on the majority party to pass the budget and to get the appropriations bill out. We saw, even as late, as late last week the fumbling around, the frantic scratching for votes, the efforts to get the majority behind the appropriations bills. They have done this, taken us well into the new fiscal year without meaningful negotiations with the White House. There have been talks beginning very recently.

□ 2030

But for the most part it is one side setting down their side, the other side setting down their side; and at least to some of us, it looks like never the twain shall meet. We know it will be broken sooner or later. But rather than have these bills passed in a timely measure last summer, so that the differences with the White House could be ironed out in September, putting the bills in place by the new fiscal year, we are now well into the new fiscal year and no end in sight.

That is why it concerned me deeply to hear a member of the majority say in the preceding presentation that during the two Government shutdowns of 1995 nobody noticed, nobody cared. I will give him this. The gentleman that said that is a freshman. He was not here at the time, and so maybe he was not simply paying attention. But every Member of Congress knows that shutting the Government down was a failure of Congress.

At that time, Speaker Gingrich was the leader of this chamber, and it was a distinct failure of Speaker Gingrich and the Republican majority, one that will live in infamy in the days of this chamber; the House of Representatives unable to get its work done causing the Federal Government to shut down. Taxpaying Americans unable to even enjoy the national parks or, for that matter, to go up in the Washington Monument down on the Mall because of the political gamesmanship and the abdication of responsibility to get the spending packages put in place.

So here we are, once again under a Republican majority, once again deeply into the fiscal year without the new spending bills in place, and now we have Members of the Republican majority saying this government shutdown is not such a bad idea. It really leaves me concerned about where this outfit is heading. Because I would hope, as long as I am in this chamber representing the State of North Dakota, we never, ever see such a pathetic time when this body shuts the Government down because it cannot get its work done.

The failure of this outfit, the majority, to fund the government is only part of their failure up to this point. Let us look at the legislative record. What do the American people want? I

have a good notion they want a patients' bill of rights. They want protections when within an HMO they are not sure who they are getting care from, their physician or an insurance executive somewhere across the country at some call center.

This Congress, the majority leadership, did everything possible to delay and frustrate efforts to get a patients' bill of rights passed. And, frankly, they lost. Months later than it should have happened, we passed, the majority and joined by a few courageous Members of the majority, a patients' bill of rights law, or a proposal, that now languishes at the end of the session because, having passed it out of this chamber, they continue to frustrate efforts to get the enactment completed and get it hastened on.

I have a feeling that the American public wants basic gun safety legislation, something as basic as trigger locks, so that we do not have children shooting children with their dad's gun accidentally in the homes anymore. Something as basic as closing the loopholes for gun sales that would have a registered gun dealer having to run background checks, but an unregistered gun dealer at a gun show not having a similar requirement. It does not make sense. The American people want it addressed. This group has done everything possible to keep that legislation off the floor and to keep this bill from becoming law.

Prescription drug coverage within Medicare. I represent in North Dakota maybe more seniors than a lot of people, but there is a crying need for prescription drug coverage in Medicare. We have seen since the Medicare program was created more than 30 years ago an evolution in how the program works. More and more outpatient. Not so much those long hospital stays of days gone by, but more and more reliance upon prescription drugs. And there are wonderful breakthroughs in medicine that have allowed prescription drugs to play a bigger and bigger role in terms of health maintenance.

The ironic thing is many of us believe if seniors have the ability to pay for the prescription drugs they need, many of them will stay out of the hospitals and we will ultimately save the Medicare money while preserving lives, while enhancing quality of life. Prescription drugs in Medicare ought to have been on this floor for debate and consideration, but the majority has stopped it.

We have a Social Security program, and I am going to talk about this in some detail, that needs additional finances. We are at the critical point in our Nation's history where we have surplus dollars to apply to the shortfall that will be coming in Social Security. But the majority has kept off this floor a proposal, any proposal, to strengthen the life of that trust fund a single day. They have done nothing to prolong Social Security, to strengthen Social Security. That is the record aside from the appropriations.

Let us talk about what they have said in the appropriations, and let us start with a few charts that I have with me. The budget bill they were talking about, the great big one with that 1 percent across-the-board cut, does nothing to protect Social Security. It does nothing to lengthen the trust fund by a single day. That bill does nothing to provide prescription drug coverage in the Medicare program. And that bill hurts every American family in some way.

My colleagues might ask how can a bill hurt every American family in some way. For one thing, it does not provide the funding for the President's Police on the Beat program. This COPS on the Beat program, which has been responsible for putting 100,000 law enforcement personnel out on the beat needs continuation and it needs to be improved. And our side believes that ought to be achieved in this bill they have just been talking about. They do nothing about COPS on the Beat, and they would let this program simply expire quietly, and this enhanced law enforcement protection for American citizens that many of us believe has had such an important role in reducing the crime rates would go away.

So that is what was not in their plan. What was in their plan was an awful lot of phony accounting. They have talked, and I have just sat here and if I heard it once, I heard it at least 30 times, how they are not touching the Social Security revenues to fund their budget. I guess they operate, and they are good men, do not get me wrong, they are friends of mine; but I am afraid they are either operating under denial or the old adage that if we say something long enough, no matter how untrue, we begin to believe it ourselves and we hope others begin to believe it as well. Well, something like whether or not they are telling the truth and whether they are spending the Social Security Trust Fund money has to be more than what we might stand up and say by way of empty words.

Let us look at what the Congressional Budget Office says. Because this is the outfit that Congress charges to do the scorekeeping on the spending bills that pass this chamber. Clearly, it is not enough for any individual legislator to pass a bill and say, well, that is not going to cost very much, and that is why Congress has established this nonpartisan central office, the Congressional Budget Office, to keep a score on the bells.

This says it all. CBO makes it clear. They spend $17 billion of Social Security surplus. And the report from CBO states, and I quote, ''Outlays from congressional action on appropriation legislation, including the latest action on all 13 regular appropriations bills, would also exceed the discretionary caps by more than the CBO estimate of the on-budget surplus. After taking that surplus into account, CBO projects an on-budget deficit of about $17 billion.'' An on-budget deficit of $17 billion.

Well, what does that mean? That means they are into the Social Security Trust Fund for $17 billion. Now, if my colleagues think this is some kind of accounting gobbledygook, let me quote from a Wall Street Journal story which puts it in slightly more user-friendly language. This is a story that ran in the Wall Street Journal on Friday, October 29. Under the headline, ''CBO Estimates That GOP Exceeds Spending Targets by Over $31 Billion,'' the story reads: ''Congressional Budget Office estimates show that Republicans are more than $31 billion over their initial spending targets for this year, risking the Government having to borrow again from Social Security.''

Now, those are not my words; that is the analysis of the Wall Street Journal. ''Prior appropriations bills have exceeded Mr. Clinton's request for funding everything from veterans' medical care and the Pentagon to the Environmental Protection Agency. Even with the 1 percent quote, the Labor-Education and Health bill,'' which is expected to be passed by the Senate on Monday, ''includes major spending increases over last year.''

Anyone listening to the prior hour heard ad nauseam about the 1 percent across-the-board cut. What is the cumulative effect of that 1 percent cut? ''Even with the 1 percent cut, the Labor-Education and Health bill includes major spending increases over last year.'' Those are not my words; those are the Wall Street Journal's words.

The final paragraph of this story sets out what I think is the most egregious of the gimmicks used in trying to patch together a budget to camouflage their raiding of the Social Security fund. The GOP continues to work from what amounts to two sets of books, one based on the CBO, the Congressional Budget Office, and the other on spending estimates by the Office of Management and Budget. When OMB's numbers are favorable, the House and Senate Committee on the Budget members simply direct CBO to adjust its estimates accordingly. These changes add up to billions of dollars over the years.

I might say that as a former Committee on the Budget member, this is without precedent. The Congressional Budget Office is the scoring entity established under the Budget Act to evaluate what Congress is spending. But here we have the majority using two sets of books. If OMB gives a better number, they use the OMB number, and they do it in their appropriations. They direct CBO not to use its own scoring methodology but just to accept the higher number, the one that benefits them.

By using two sets of books, they have destroyed the validity of CBO's accounting and damaged very much the budget integrity of the Congressional Budget Act.

Mr. MINGE. Will the gentleman yield for a moment?

Mr. POMEROY. Mr. Speaker, I will yield to the gentleman from Minnesota

(Mr. MINGE), and I am very pleased the gentleman has joined me, a distinguished member of the Committee on the Budget.

Mr. MINGE. Well, I thank my colleague, and I would just like to comment for the benefit of our colleagues on this problem with CBO scoring.

I think that it is sort of easy to forget that we established the Congressional Budget Office, or CBO, in order to get away from inaccurate projections that were being developed back in the 1980s. There were always these rosy scenarios that we were going to have the deficit problem licked, it was just around the corner, that the deficit was going to decline. And I still remember sitting home there in Minnesota as a citizen in the community and thinking, gee, this is positive. And then at the end of the year, it was a big disappointment. It was a letdown.

And it was because the White House and Congress were using all sorts of different projections and coming up with these rosy scenarios. So the Congressional Budget Office was really directed to be nonpartisan, to be objective, and it was to be beyond the influence of parties in Congress and it was to be independent of the White House, because the White House and the Office of Management and Budget had become notorious for these rosy scenarios.

So in the late 1980s and the early 1990s, we had a Congressional Budget Office with some rigor, and everybody, I think even the folks at the White House, Republican or Democrat, were respecting the projections from the Congressional Budget Office, or its estimates, its so-called scoring, as being the most accurate.

And the gentleman has raised an excellent point, because I think one of the things that troubles me most about what we have seen here in the last few months is the abuse of the Congressional Budget Office; instead of relying on its objective estimates, picking and choosing when the Congressional Budget Office estimates will be used and when the Office of Management and Budget's estimates will be used. And, of course, if we pick the most favorable from the two different entities, we can develop a much more positive projection as to what is going to happen. The so-called rosy scenario.

□ 2045

And that is back to the smoke and mirrors problems that we had in the 1980s and the beginning of the 1990s.

Mr. POMEROY. Mr. Speaker, reclaiming my time, and I ask the gentleman to please stay and participate in this dialogue, but I think we got into serious deficit trouble in the 1980s because we had phony numbers, and what this outfit is doing is using once again phony numbers.

Let us just put it in a family context. Let us say, for example, I make a living on commission sales. I sell and I get a percentage of what I sell. That is my income. Well, let us say I want to really spend money. And so, I just go ahead and figure, well, this year I am suddenly going to make a great deal more than I ever had before and, in fact, I spend the money.

But then the income does not come in as I have projected, I pretty much earned what I always earned and I am in a big financial hole. Well, applying to the Nation, that is what happened to us in the 1980s. And now this outfit, the majority, that parades around on the floor beating their chests about how they are saving Social Security, are doing it with cooked books.

Would not we all like to have two sets of books? Let us just play with this idea for a minute. Think about applying for an equity loan on your mortgage and someone is going to say, well, how much is your home worth? Well, on the one hand, you can have an appraiser go out and do an estimate, or on the other hand, you could have your brother-in-law give his idea of what the home is worth; and, by the way, you pick the higher one.

Take the instance of a checkbook. Which is the real value of the amount in the checkbook, the present value of the cash on hand or that cash-on-hand figure reduced by the number of checks you have already written?

Well, if you could just kind of automatically pick whichever figure you wanted, you would pick the higher one and forget about those checks outstanding. And so it goes.

Let us say you are applying for a loan and you say, well, how much do you make? And you say, well, do you want to take the employer's estimate, your employer's verification of what you are paid, or do you want to take my idea of what I am worth? Pick your figure.

When you use two books, you could do anything and it leads you to an absolutely absurd result.

Mr. MINGE. Mr. Speaker, if the gentleman will continue to yield, I worked with certified public accountants, and you always look to an independent accountant for the best analysis of your financial condition.

One thing that is just absolutely fundamental in the accounting profession is that you use standards and you apply them consistently. And when you are picking and choosing how you are going to apply your standards, you are setting yourself up for a very unfortunate accounting surprise.

And for those folks in our body, those among our colleagues that are familiar with accounting, you know, number one, you need to have standards which make accounting sense. Secondly, you have to apply them consistently. And the third thing, which relates to what my colleague was just talking about, is, again speaking in accounting principles, to use an accrual basis of accounting.

If you are keeping track of your obligations as they accrue, it is a whole lot harder to take an arbitrary cut-off like the end of a fiscal year and say, well, just ignore what the obligations might be as they come due just after the end of the fiscal year because that is another year. You cannot do that with the accountants. CPAs or the independent accountant say, no, we are not that easily fooled.

But what has happened here with the Republican bills that have been passed is they are trying to fool us, they are saying we will put it off into the next year, do not worry about it. And one thing I noticed is that, with the National Institutes of Health, NIH, and medical research, that they are trying to take the money instead of regular pay for our research scientists and the universities as their bills are incurred, they are putting it off until the last month of the year. And it is nuts. It takes us away from the objective type of accounting that is so important to the integrity of this institution.

I think it is tragic that we have struggled for the last 7 years to try to bring this type of discipline into this institution and here in 1999 it is being destroyed.

The previous chart that my colleague had up refers to the Committee on the Budget directing the CBO to adjust its estimates.

I am on the Committee on the Budget. We had no committee meeting. The Committee on the Budget has not participated in this. This has come directly from the leadership in the House of Representatives and the Senate, the Republican leadership. And that, too, I think is very disappointing.

If we are going to do this in an objective and bipartisan fashion like we should in dealing with the Office of Management and Budget or CBO, it ought to be committee action. There ought to be discussion. There ought to be debate. We ought to know what is happening.

If my colleague would just indulge me for a moment, I would like to also mention some legislation which I introduced on Thursday as this final appropriations bill passed.

I could see that our leadership here in Congress had done exactly what the Wall Street Journal article indicated. The Congressional Budget Office Director had written to me, saying we are $17 billion into the Social Security trust fund by our analysis, our independent analysis of the bills that have passed. And I said, if that is the case, then the leadership in this Congress has the responsibility to assure not just the other Members of Congress, not just the Social Security retirees, but all the American people that we are not going to be invading the Social Security trust fund by some type of enforcement mechanism.

Unfortunately, there is not an enforcement mechanism to be seen in these series of appropriations bills, just a lot of empty promises about how they are protecting the Social Security trust fund, as my colleague said, beating their chest.

So what I placed in this bill is essentially an obligation that we would have

with the American people that, if indeed CBO is right and we are into the Social Security trust fund, that we will restore to that trust fund out of the surpluses in fiscal year 2001 all the money that we have taken before we start talking about tax cuts in 2001 or before we start talking about expanding programs and new programs.

I have had an unwillingness on the part of my colleagues on the other side of the aisle to join me in this legislation. I think it is critical if we are going to keep the faith of the American people. We cannot cut ourselves any slack. That would be a mistake. But, at a minimum, if we are going to pass this kind of legislation, which I think is irresponsible, we ought to be willing to be forthright and we ought to have enforcement mechanisms in that legislation so that we are protecting the Social Security surplus from the continued raids on the Social Security trust fund.

Mr. POMEROY. Reclaiming my time, Mr. Speaker, the gentleman has established a reputation in this body as being a very serious-minded budgeteer for fiscal restraint, fiscal discipline, and functioning under due order.

The issues in terms of if we were having a genuine debate between the parties, which party, the minority or the majority, might do a better job of protecting Social Security, what a wonderful debate it would be. It would be a competition between the parties that would be healthy, that would bring out our best, that would strengthen Social Security, our most vital program.

But a debate like that will only be possible if each side levels with the American people. For one party to simply say they are protecting Social Security when indeed they are spending $17 billion of the surplus and denying every penny of it, that puts us on a track where this will not be a real debate, it will be about who can sell their lie. And that is not the way the American people deserve to have congressional debate unfold about the Social Security program.

Mr. Speaker, I yield to my friend, the distinguished gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, sitting here listening to my colleague, I was thinking what the American people must wonder about us as they sit at home and they watch us argue this matter and supposedly well-meaning and intellectually honest individuals differing so sharply on what the real situation is.

That is the benefit of having the Congressional Budget Office, because the Congressional Budget Office is not beholden to either political party, it is not beholden to any particular position. It was established to give us accurate and valid information. The American people, I believe, need to know that the leadership in this House has corrupted the Congressional Budget Office.

It is a sad day, I think, for us. Because if we cannot have some clear standard that we can all look to and that the American people can look to, then the American people are left out there to wonder who can they believe, which ones of us can they trust.

I think it is important for us to get this word out that the Congressional Budget Office, which is supposed to serve all of us who represent constituents across this country, was established to give us accurate, valid information and then we can take that information and use it to make decisions. But if that information is corrupted by directions from the leadership of this House, then where do we go for valid information? And we are left to flounder and then we end up, as I think we are experiencing during this end game with the budget process, with simply trading accusations back and forth.

It is not our side that has corrupted the Congressional Budget Office. It is the leadership. It is the Republican leadership in this House. And the American people, I believe, need to hold them responsible.

What they have done, I think, transcends this current crisis that we are experiencing up here, but it has the potential for a long time in the future to prevent us from making the kinds of wise and thoughtful decisions that the CBO enables us to make if they can do their job without unnecessary and unwarranted interference.

Mr. POMEROY. Mr. Speaker, reclaiming my time, the Wall Street Journal article says it very directly: ''GOP continues to work from what amounts to two sets of books.''

Now, it was not always that way. The gentleman was part of that historic bipartisan Balanced Budget Act that passed in 1997. At that time, Republicans and Democrats alike agreed that Congressional Budget Office numbers would prevail, that the budgets would be scored not by the White House OMB estimates but by the Congressional Budget Office numbers.

How unfortunate now that, while the minority is staying with the Congressional Budget Office numbers as part of the Budget Enforcement Act of Congress, the majority wants to use, and I quote from the Wall Street Journal, ''two sets of books'' to basically cover what amounts to spending to the tune of $17 billion of Social Security surplus.

We are very pleased to note the presence on the floor of the senior Democrat on the Committee on the Budget, a key negotiator that brought that Balanced Budget Act together in 1997, the gentleman from South Carolina (Mr. SPRATT).

Mr. Speaker, I yield to the gentleman from South Carolina (Mr. SPRATT).

Mr. SPRATT. Mr. Speaker, I think it is in order just to take a minute to say we have every reason to be celebrating our success. Three times in the 1990s we stood up to the problem of the deficit which had plagued fiscally the 1980s: In 1990, when we passed the Bush Budget Summit Agreement; in 1993, Democrats only, just our side of the aisle, one vote would have made the difference, we put on the board the votes to pass the Clinton Deficit Reduction Act. And then, in 1997, we came around to finish the job.

As it turned out, the deficit was already down below $25 billion that year. But we wiped that out and went on to put the Government on a fiscally even keel for the next 5 years. And now we are enjoying the fruits of that and we ought to celebrate it.

Last year, for the first time in 30 years, we had a surplus of $70 billion. This year, when we closed the books on fiscal year 1999, we had a surplus of $125 billion. Now, that is using the yardstick that we have used since 1969, including all expenditures, all revenues of the Federal Government, and so-called unified or consolidated budget. If you back out Social Security, the biggest account in the budget, this year, for the first time in eons, we are just about in balance without including Social Security, a billion dollars in a budget of a trillion, 800 billion dollars.

□ 2100

We are just about in balance with our Social Security. So we developed a new objective. Just as we were crossing the goal line, we moved the goal post back. We said, ''It's not good enough to balance the budget using Social Security. Let's balance the budget without using the surpluses in Social Security and let's not borrow from the Social Security trust account in the future.''

The President was the first to propose that we use the Social Security surpluses to buy down debt held by the public, outstanding Treasury debt. The benefit of that would be if we dedicate ourselves completely to it over the next 10 years, we would retire $1.8 trillion in debt, half the outstanding debt held by the public of this country. And then over the next 15 years, we could retire nearly all of it, more than $3 trillion of publicly held debt. Then in 2020, 2024 when the Administrator of Social Security has to take those bonds which he holds as trustee and liquidate them, cash them in so he can meet benefit payments, the Treasury will be in better shape fiscally than ever to roll the bonds and pay the debt because it will have very little debt held by the public at that point in time. This is a fundamentally important thing, and basically both parties are coming together on trying to do that as one of the legs in the stool that will keep Social Security up.

So this year we said we would like to stay out of the Social Security surplus. My colleagues on the other side said they were going to do that. The problem is they really have not shot squarely with the budget that they presented on the floor.

And so I wrote Mr. Crippen, Dr. Crippen, a Republican appointee, a good man, he has a Republican partisan background, he is their appointee to head the Congressional Budget Office, CBO, supposed to be neutral and

nonpartisan. It is our budget shop. I asked him since he is the scorekeeper, he is the umpire, he is the arbiter in these matters and they are the experts with a good track record of predicting the effects of legislation that we pass around here that we call the budget, the 13 appropriations bills that make up the annual budget, give me the latest, give us the latest update. When you have passed the 13th of these 13 bills, tell us where we stand.

He wrote me back a letter telling it like it is. He said, Dear Mr. Spratt, look at table 1. Total spending in these 13 different appropriation bills by our calculation, and that is outlays, that is dollars actually spent in fiscal year 2000, the year that we are in right now, will come to $614.1 billion. He said if you apply an across-the-board cut of 1 percent to that, you will whittle off about $3.5 billion of it, leaving a net of $610 billion. He said in 1997 when you did the balanced budget agreement of 1997 and you capped discretionary spending, the cap or ceiling that you put on discretionary spending this year was $579.8, $580 billion. If you spend $610 billion which is what these 13 bills did, according to Dr. Crippen, you are $30.7 billion over and above those discretionary caps. That is the first violation.

Secondly, more importantly, when you go $30 billion over, you have got a $14 billion surplus out there that we project for fiscal year 2000. That surplus would obtain if you hit the target of $580 billion in total spending. But if you are $30 billion over it, then you will use up the $14 billion surplus and be $17 billion in deficit. That deficit will have to come out of Social Security. That means that you will be $17 billion into the Social Security account. That is the straightforward accounting of the matter. No way you can cover that up. They tried to dispense with it with what we call scorekeeping gimmicks, delayed obligations, advance funding, all of these different things, there is a lengthy list of them provided, and they are all shams. The truth of the matter is right here. Dr. Crippen told it the way it is. They are $17.1 billion into the Social Security trust fund as a result of bills that this Congress passed under the majority leadership of the Congress in the House and the Senate.

Mr. POMEROY. I want to ask the gentleman a question if he would be so kind.

Two very distinctly different versions of this 1 percent cut have been presented on the floor tonight. I have quoted the Wall Street Journal that says even with the 1 percent cut, the Labor, Education, Health bill expected to be passed by the Senate on Monday includes major spending increases over the last year. That is what I believe that 1 percent cut does. The other side has said that 1 percent cut eliminates any spending into the Social Security revenues, so if you voted against that 1 percent cut, then you are voting to spend Social Security. That is their argument and they repeat it again and again and again.

Would you discuss whether there is any basis to their argument.

Mr. SPRATT. Dr. Crippen sent me two tables in response to my request. Under his letter of October 28, he said, CBO has also calculated the across-the-board cut that would be necessary to eliminate the estimated on-budget deficit, the deficit without Social Security, for this year under two scenarios. Table 2 presents their estimate of what would be necessary in the way of across-the-board cuts to wipe out this deficit of $17.1 billion that otherwise will come out of Social Security.

He said, if you cut completely across the board, defense, veterans, everything, it will take a 4.8 percent across-the-board cut, not a .97 percent cut but a 4.8 percent. Now, he said if you cut 4.8 percent, you are going to wipe out the pay raise and everything that you have provided for personnel this year, important initiatives in the defense bill. Your initiative to get $1.7 billion of additional funding for veterans health care will be largely wiped out. So if you exclude veterans health care and if you exclude defense programs, the across-the-board cut would have to be 10.8 percent, not 1 percent or .97 percent. It would have to be 10.8 percent. So the whole 1 percent across-the-board cut is a ruse. According to the Director of the Congressional Budget Office, Dr. Dan Crippen, the minimal cut would be 4.8 percent in order to rectify these books and stay out of Social Security.

Mr. MINGE. I have worked with the gentleman on the Committee on the Budget for the past 3 years. I have never worked with another committee member who has delved into the subject matter of the committee as thoroughly as he has. I was very interested in the comment that the gentleman made at the outset. That is, it has been historic. For the first time in decades we have balanced the budget using Social Security and now we have come within just a fraction of an inch of balancing the budget with Social Security off the budget, and so really it is a historic time. We ought to be rejoicing and we ought to be facing up to any problems that we have, having come this close to this accomplishment. But instead, what troubles me is that we are corrupting the integrity of the budget process to be able to boast that we have done something we have not quite done yet. I think that the damage that this does to the integrity of this institution is tragic.

Mr. SPRATT. If the gentleman will yield, to the discipline of the budget rules that have brought us from a $290 billion deficit 7 short years ago to a surplus this year, measured by the same technique, of $125 billion. Rules, processes, procedures have helped us travel that far in this period of time. If you undercut and trash those rules, we will soon lose what we have accomplished.

Mr. MINGE. That is exactly my point. We are corrupting the process here to be able to boast that we have done something that has not quite been achieved. I think that is one tragedy. The second is, we have not even talked here in our discussion about Social Security about the enormous and really it was a phony tax cut proposal that was passed through these bodies this fall. There was an effort to I think pander to the American people about a tax cut that many of our colleagues would never have voted for if they had expected the President to sign it, and that would have destroyed our opportunity to say that we were indeed balancing the budget without using Social Security. There was no really effective enforcement mechanism there, there is no effective enforcement mechanism now, and the consequence is that what we are doing is we are sowing the seeds of disillusionment of the American people of this institution. I think that we ought to be forthright, we ought to have the integrity to stand up and say, it might be next year if that is really what we are doing, and the leadership in this body is taking us down this sort of rosy scenario path. What I really resent about this path is that we again are attempting to mislead our citizens. This Wall Street Journal article lays it out factually. I think that if the Wall Street Journal is taking a critical eye of this, this claim by the Republicans in this body, the entire Nation should know that we have to really sit up and watch what is happening. We cannot let the leadership fool us or fool the American people in what is happening.

Mr. POMEROY. Reclaiming my time, the parties have agreed on some fundamental principles of budgeting. Going to use real numbers, commonly agreed to, as scored by the Congressional Budget Office, an office established for that very purpose. Secondly, we are going to operate under budget caps, caps that limited the amount of money that could be spent. Thirdly, we were going to have pay-as-you-go, so if you, operating within those caps, were adding spending, you had to cut spending somewhere else. Those are the three core elements the parties have agreed to in terms of budget discipline that got us out of this god-awful deficit and into the situation where the surplus is today. I think the gentleman from Minnesota makes such a great point in expressing his real alarm at now the Republican majority tearing apart those agreed principles of budget discipline.

I think of it kind of like a dam holding back a wall of water. Just think about it being these budget discipline principles holding back a flood of Federal spending. If one party starts to say, ''We're not going to use real numbers anymore, we're not going to use the Congressional Budget Office anymore, we'll use them some but when it is to our advantage, we'll use something else, we're going to keep two sets of books,'' when the budget number integrity starts to go, look out, because

there is going to be a wall of spending trying to hustle through that very opening.

Mr. SPRATT. If the gentleman will yield again, I would like to pick up on what the gentleman from Minnesota said, and that is that this is a pretty special time. For the first time in the 17 years that I have been here, we are literally able, fiscally able to do something about Social Security's long-run future and Medicare's long-run future. Heretofore, we have had to struggle year to year with the deficits that have beset our budgets. We simply did not have the wherewithal to muster the energy and do something about Social Security. Now we can do something, if we will. The question before us is, do we have the will to do it?

Last August, just as soon as CBO and OMB had both projected large accumulations of surpluses over the next 10 to 15 years, the first action we got from our colleagues on the other side was a large tax bill. And I think some of the surplus should be given back to the American people in the form of tax reduction, no question about it. But I think the American people want us to fix Social Security for the long run and we have got the opportunity now.

If we had voted for that tax bill last summer, and the President signed it, the wherewithal to deal with Social Security would have been gone and the problem we have right now, closing the budget this year, we are 1 month into a new fiscal year, do not have a budget, only foreshadows the problems we would have had in 2001, 2002, on past 2010, as far as the eye can see, if that tax bill had been passed. It would have left us strapped and unable to do anything about Social Security, much less Medicare.

Mr. POMEROY. Reclaiming my time and on that point, there are three ways you shore up Social Security for the long haul. One way to do it is cut benefits. We are going to run out of the Social Security trust fund in the year 2034, so what are we going to do to prop it up for the long haul? With the average Social Security check in this country being somewhere around $700 and one-third of all recipients depending almost entirely on that check to live, two-thirds depending on that $700 check for more than half their income, I do not think cutting benefits is what we want to do. I do not think we ought to raise the retirement age. Americans are looking forward to their promised Social Security check. What do you want to take the retirement age to? 70? 72? 75? We do not want to go that way. So cutting benefits, I do not think, is the way to go.

□ 2115

The second thing you could do is raise taxes. Well, the tax already is 12.4 percent to support Social Security, the payroll tax. More Americans in this country pay higher FICA taxes supporting Social Security than they pay income tax. So I surely do not think you want to do any more on raising taxes.

That gets us to the third and only other alternative, and that is to take some of the general fund money and put it into Social Security so you prolong the life of Social Security and have it there, guaranteed, so those benefits will be there as we baby-boomers move into retirement and as our children move into retirement after us.

Now the tax cut passed by the majority, vetoed thankfully by the President, would have taken all the general fund revenues and basically sent them out the door in a tax cut that disproportionately benefited the wealthiest people in this country. The general fund revenues are gone. That means Social Security faces being balanced by benefit cuts or tax increases as the only other alternatives. So, thankfully, while this majority has not been very good about getting the spending bills put in order, they did get that tax cut bill passed, but, fortunately, it was stopped.

We are joined tonight by a very distinguished Member of this body, the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentleman. I was intrigued with the gentleman's suggestion about the various paths open to us to strengthen Social Security. I think it is worth mentioning that in 1983, when the Social Security Trust Fund was rescued and put on a path to solvency, we started deliberately running surpluses in Social Security, and we are enjoying those surpluses today. But we were running those surpluses for a purpose, so that the assets will be there when the baby-boomers retire and when the strains on the fund become much greater. Those surpluses are being invested by law in Treasury bonds at market rates of interest.

But is it not true that when the time comes to make good on those obligations, we would have a terrible time doing that were we to be saddled with a publicly held national debt of the dimensions that we now are, $3.5 trillion, costing this country something like $230 billion annually in interest costs?

So is it not prudent, is it not just common sense, to use our surpluses now to get that publicly held debt down, to get that interest cost off of our back? Ten years from now, 15 years from now, when the strains on the Social Security Trust Fund are much greater, then we will be in a much stronger position to make good on those obligations.

Mr. POMEROY. Reclaiming my time, the gentleman has laid out, I think, the construct of what is emerging as the single best way to shore up Social Security for the long haul: take the surplus dollars and pay down debt held by the public. Fifteen cents out of every taxpayer dollar today goes to pay interest. It is unavailable for tax relief, it is unavailable for any positive function, it simply pays interest, fifteen cents out of every dollar.

We take that debt held by the public down and bring it down dramatically as these surpluses would allow. There is going to be a huge budget savings. We are not going to have to pay that interest anymore. Anyone who has ever retired a credit card debt or pays off a home mortgage knows how that one works. You do not pay the debt; you do not have the interest cost.

Well, if we take the general fund savings that we are not paying in interest and put it into the Social Security Trust Fund to shore up Social Security, we can move the life of the trust fund from 2034 to 2050. Now, that takes us as a country well past the period of time when most of us baby-boomers are going to be drawing upon the Social Security program. It is a major boost to the solvency of the program.

I think especially as the ending days of this session grind on, it is the clear difference between how the parties would treat Social Security. The proposals of the majority would not extend the life of Social Security by a single day, not a single day. On the other hand, you pay down the debt, you take the interest savings, you put it into the trust fund, you can push the life of the trust fund to 2050 and, at the same time, leave this country in the strongest financial position it has been relative to debt since 1917, bringing that 15 cents on the dollar of interest cost down to 2 cents on the dollar in interest costs.

If we could be part of that, working together with the majority to actually lengthen the life of the trust fund, we would really be doing something for the American people.

But contrast that plan with the plan that essentially purports to do something about Social Security, but uses every budget gimmick, including double bookkeeping, to try and mask a raid on Social Security, and, in any event, does not add a single day to the life of the trust fund. That really is the alternative offered by the respective parties late in this going.

I yield to the ranking member of the Committee on the Budget.

Mr. SPRATT. Mr. Speaker, I would like to make a point that is a little different from the one the gentleman has been on, and that is we achieve these budget surpluses with real budget discipline. Among other things, we impose cost curbs and controls, discretionary spending ceilings, for example, that have held spending down for the last 10 years. As a consequence, we have reduced spending in the Federal budget to where today it is about 19 percent of the total economy. In other words, out of every dollar this economy produces, the Government takes a bite of about 19 cents.

As recently as the mid-1980s, in the peak pinnacle of the Reagan years, we were spending, the Federal Government, as a percentage of GDP, 23.6 percent, as opposed to 19 percent going to 18 percent in a few years under the

budget we have now in place, 3 to 4 percentage points less than we were spending just 15 years ago.

Now, why is that significant for Social Security? In order to pay for the long-run cost of Social Security, once the ratio of those working to those retired drops to about 2.2 to 1, we will need to shift resources out of our GDP into the Social Security program, because we have lowered spending. We will need to shift about 2.7 percent maximum of our total economy in order to fund the peak demands of the Social Security system after the baby-boomers fully retire.

Because we have adjusted spending, we have laid the basis, the foundation, for making that adjustment in the future, another way that we position ourselves to finally stand up to this problem, address the problem, rise to the opportunity, and it will be a shame if we blow this opportunity and do something else before we have saved and made Social Security solvent for the long run, because it is bedrock for 40 million Americans, and it will be bedrock for millions more before our work is done.

Mr. POMEROY. Reclaiming my time, and I want to direct a question to the gentleman from North Carolina (Mr. PRICE), particularly given his expertise on the Committee on Appropriations, the other side maintains that their 1 percent across-the-board cut takes no spending out of the Social Security Trust Fund. Now, the Congressional Budget Office has said that is not true. In fact, it shows that they are into the Social Security Trust Fund to the tune of $17 billion.

It says if they wanted to actually get that money down so it was not in the Social Security Trust Fund, rather than a 1 percent cut, it would be almost a 5 percent cut, and that is across the board.

Now, that would include wiping out the pay raise that we gave the men and women in our military. It would include wiping out the important additions we have made in veterans health, so that this Nation can continue its health commitment to its veterans.

If you take the Defense Department and you take veterans health off the table, you say well, we cannot cut that 4.8 percent, take that off the table, then you are talking almost an 11 percent, 10.8 percent across the board, in order to get Congress out of the Social Security surplus.

Would the gentleman on the Committee on Appropriations have any opinions in terms of whether or not this would be any way to run a country?

Mr. PRICE of North Carolina. Mr. Speaker, the gentleman is exactly right. We can look back and say how much better it would have been, how much better off we all would be, had we had a realistic budget resolution 8 months ago, had we agreed not to engage in this budget gimmickry and this budget gamesmanship and had simply met our obligations.

Other speakers have said tonight there was the potential there, and I hope there still is, for considerable bipartisan agreement. We, after all, in 1997 came together on a Balanced Budget Act, and both parties are largely agreed or at least profess agreement that we ought to be using the Social Security surplus to buy down debt and to ensure the future of Social Security.

But what we have now at the end of this session is a confusing and convoluted process. The gentleman from South Carolina (Mr. SPRATT) has referred to this directed scoring. All in the world that means is the Congress tells people who are supposed to be neutral, fair scorekeepers, tells them how to cook the books. Surely that is not what this budget process had in mind, the architects of this process.

Then all this emergency spending that is not really emergencies, and then this 1 percent across-the-board cut, which is out there I suppose for show, but, as the gentleman says, does not even come close to doing what the Republican majority has said that they intend to do.

So I do not know quite how we are going to resolve this congressional session; but I do know that we need to come together, we need to be honest with one another and with the American people, and we need heretofore to abide by the rules of the budget process and never again go through this kind of deceptive and convoluted end-of-session budget game.

Mr. POMEROY. Mr. Speaker, reclaiming my time, I would like to see us start as we push toward conclusion by at least being honest with the American people. Maybe they will agree with our side; maybe they will agree with that side, but we owe it to the people we are here to represent to at least be square with them, tell it like it is, and that is why I believe these budget gimmicks, two sets of books, emergency funding declarations, claiming you have not spent Social Security when you have spent Social Security, does such a terrible injustice to our efforts to try and resolve the differences and end this session.

Clearly, it is in nobody's interest to be lurching along from continuing resolution to continuing resolution. I think as we do that, we even raise the prospects of another Federal shutdown, something one of the speakers from the majority alleged tonight was not all that bad a result. Well, I surely would hope we would not go there and we would end this on budget numbers.

As we conclude this special order, I yield to the gentleman from South Carolina for any concluding remarks he might have.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for calling this special order.

Mr. POMEROY. Mr. Speaker, I very much appreciate the gentleman bringing his expertise to the floor. It is a late hour here on the floor of the House of Representatives. I thank both gentlemen so much for the contributions each has made.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2389, COUNTY SCHOOLS FUNDING REVITALIZATION ACT OF 1999

Mr. SESSIONS, from the Committee on Rules (during the special order of Mr. POMEROY), submitted a privileged report (Rept. No. 106–437) on the resolution (H. Res. 352) providing for consideration of the bill (H.R. 2389) to restore stability and predictability to the annual payments made to States and counties containing National Forest System lands and public domain lands managed by the Bureau of Land Management for use by the counties for the benefit of public schools, roads, and other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS, from the Committee on Rules (during the special order of Mr. POMEROY), submitted a privileged report (Rept. No. 106–438) on the resolution (H. Res. 353) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3194, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000

Mr. SESSIONS, from the Committee on Rules (during the special order of Mr. POMEROY), submitted a privileged report (Rept. No. 106–439) on the resolution (H. Res. 354) providing for consideration of the bill (H.R. 3194) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 900, FINANCIAL SERVICES MODERNIZATION ACT

Mr. SESSIONS, from the Committee on Rules (during the special order of Mr. POMEROY), submitted a privileged report (Rept. No. 106–440) on the resolution (H. Res. 355) waiving points of order against the conference report to accompany the Senate bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes, which

was referred to the House Calendar and ordered to be printed.

□ 2130

ILLEGAL NARCOTICS AND AMERICA'S NATIONAL DRUG CONTROL POLICY

The SPEAKER pro tempore (Mr. RILEY). Under the Speaker's announced policy of January 6, 1999, the gentleman from Florida (Mr. MICA) is recognized for 60 minutes.

Mr. MICA. Mr. Speaker, it is good to come to the floor again tonight to talk about a subject which I try to address the House on each Tuesday, if possible, but at least once a week, to come before the forefront of the House of Representatives and the American people what I have as a congressional responsibility, and that is the issue of illegal narcotics and our national drug control policy.

In this session of Congress, I have been responsible as chairman of the Subcommittee on Criminal Justice, Drug Policy, and Human Resources for helping to bring together a coherent national drug policy, and also carry forward a program started by the new majority to restart the war on drugs.

I will talk about what has happened with the so-called war on drugs in my remarks tonight. I will try to review a little bit of some of the current controversy concerning the war on drugs, and how to attack the problem of illegal narcotics and drugs, and then to trace some of the history and problems we were not able to get into last week, particularly on how we got ourselves into this situation with Colombia and the current situation with Panama that has made the news with many of our operations being closed down there, not only from a military standpoint, but also from the standpoint of trying to curtail illegal narcotics from their source from Panama as a forward operating location.

Tonight I feel a little bit caught between the left and the right on the issue of illegal narcotics. I took over the chairmanship and responsibility of trying to develop a policy that would be more effective, and inherited that responsibility, as I said before, from the gentleman from Illinois (Mr. HASTERT), who is now the Speaker of the House, who did a tremendous job in restarting our national effort to combat illegal narcotics.

I took on this responsibility without a whole lot of preconceived notions, but again, a philosophy that is probably on the tough side of the agenda in dealing with illegal narcotics. But I found myself again this week sort of attacked a little bit from the right and a little bit from the left on the issue, both by some national columnists and some local columnists.

We have done our best to provide an open, honest forum in our subcommittee hearings to intelligently discuss the options at hand and look at things that we have done in the past relating to illegal narcotics and our approach, and see what went wrong and how we go forward, because this problem does have an incredible social cost.

As I have said, it is not just dollars and cents, but there is a human cost in tragedies across this Nation. There are hundreds of thousands of people, nearly 2 million Americans, in jail, and some 70 or 80 percent of them are there because of illegal narcotics crime activities. There have been 15,200-plus deaths, up almost 8 percent over the previous year, drug-induced deaths.

The social cost is estimated at a quarter of a trillion dollars, a tremendous social cost in the problem of drug abuse and illegal narcotics, and then the cost to our judicial system, our health care system, our economic system, with lost unemployment, not to mention lost opportunities for so many Americans.

But as I said, I am trapped a little bit tonight between the right and left. Some are saying that we have to learn to live with drugs, such as Ethan Nadelmann, who wrote this story which actually appears today in the Washington Post, I think it is a national column.

Mr. Nadelmann is director of the Lindesmith Center, a drug policy institute with offices in New York and Chicago. I am told he is funded by Mr. Soros and some others who have advocated a little bit more liberal drug policy approach.

He does attack the current approach to illegal narcotics, and he says in his article, ''Let's start by dropping the 'zero tolerance' rhetoric and policies and the illusionary goal of drug-free societies.''

I think we have only to look at comparing, and I have done this before, a zero tolerance tough enforcement approach versus a more liberal approach, laissez-faire, towards illegal narcotics. We have good examples in the United States, and I have cited them before.

One, of course, is Baltimore. I have had this chart up several times before. Baltimore adopted sometime ago a very laissez-faire, liberal drug approach, much as has been advocated by the administration in this budget battle that we have had in the past few weeks in funding the District of Columbia, one of the 13 appropriations measures we must pass to fund the government, and a Federal responsibility.

But tucked in within that legislation to fund the government were provisions to liberalize needle exchange, to liberalize some of the approaches to marijuana, and a more liberal approach towards what are now illegal narcotics.

We cite, again, a great example of Baltimore, which in 1996 had almost 39,000 drug addicts. This is the liberal approach. Now, they have gone from 39,000 in 1996 to somewhere in the range of 60,000 today. So today we have one in 10, and a city council person whom I have quoted before from Baltimore on the city council there has estimated that the real figures may be closer to one in eight.

If we took this model, and we have a population of the United States we will say rounded off to 270 million, 280 million people, and if we had one in 10, our Nation, using this model, would have some 27 million to 28 million people addicted to drugs.

Not only do we have the problem of drug addiction, we have the continual problem of death and other incredible costs, social costs. Baltimore is one of the few major cities that did not have a reduction in deaths. In fact, it remained the same from 1997, and in 1998 the figures were 312 deaths in the city, for a liberal policy. So we had a huge increase in addiction with the liberalization. This is an example of that liberal policy.

The zero tolerance policy, which is bashed in Mr. Nadelmann's column today advocating, again, dropping this zero tolerance rhetoric, zero tolerance, Rudy Giuliani, the mayor of New York, has employed that, and it has worked very well. We have gone from over 2,200 deaths to 629 deaths. Again, think of Baltimore, which has a small population, 600,000, and 15 times that population in New York City, and half the deaths in Baltimore, 312 in one year versus 629 for a city of a multi-million population. This is the zero tolerance policy Mr. Nadelmann would like us to drop in his article today on the liberal side.

I think this is part of the flaw of his reasoning on this. Again, we have some pretty hard evidence here. He goes on, and I would like to also cite his article in today's Washington Post.

He says,

> With some foresight today, drug policymakers might finally grasp that their relentless efforts to eradicate coca crops have little impact on availability, price, or use of cocaine anywhere in the world.

This is his statement today, November 2.

I just wanted to share with my colleagues and the American people the latest information I have today. This chart actually was provided to me this afternoon by the vice president of Bolivia, who was visiting Washington. He met with me this afternoon. He presented this chart, again, the same day this article appears. He says, ''. . .the policymakers might finally grasp their relentless efforts to eradicate coca crops have little impact on the availability.''

Well, here is a project that the gentleman from Illinois (Mr. HASTERT) started several years ago when the Republicans gained control of the majority. As we can see in the early nineties, we saw some decrease. This is under the Bush administration, the end of the Bush administration. We see the beginning of the Clinton administration, where we see the increase in coca cultivation.

What happened here is that the international programs were cut by the Democrat majority. Now, they had a

complete majority to do basically anything they wanted to in the House of Representatives and in the Senate, and President Clinton controlled the executive agency, so what they did in fact was slash the budgets for the number one responsibility, which was stopping the production at their source, the most cost-effective. So we saw an increase in production in the Clinton years, 1993 over here to where the Republicans take over in 1995.

It took us from 1995 to 1996 really to get in place a very cost-effective program. I asked the vice president, how much American money would you estimate that has gone into coca eradication and alternative crop programs? And it is about $30 or $40 million over the past several years.

So with very few dollars out of $17.8 billion, $30 or $40 million in several years, and again, if we go back to what happened in the Bush administration, we could trace this back to the Reagan administration, in very few years we have cut, for almost no money in comparison to what we are spending these huge amounts on for other efforts, we have cut coca cultivation.

Again, Mr. Nadelmann is wrong. His facts are wrong. The production in just Bolivia is cut some 50 percent in 2 or 3 years, and we have a program working with them now with very few dollars to eradicate the production.

Now, if I put up Peru, Peru and Bolivia, they accounted for about 90 percent of all the coca cultivation back in the beginning here, in the 1992 area, when the Clinton administration took over. Bolivia has had a 50 percent reduction, Peru has had a 60 percent reduction. Both have tough zero tolerance policies, and both with a little bit of help from their friends, very little U.S. money, but a determination for a zero tolerance for going after coca cultivation.

The only chart that we would show where there has been an increase in cultivation would, of course, be Colombia, where the administration blocked assistance, aid, and stopped everything for a number of years. We saw that soar, until just the last year they have awakened to the problem that they have created through their policy of not stopping drugs at their source.

Again, we have been able to affect this. We have also been able to affect the consumption and use of cocaine, which has dropped, and again, another chart shows the long-term prevalence of cocaine use here. We saw in the Reagan administration this levelling out, a dropping under Bush, the Bush administration, and again, the beginning of an increase when President Clinton took over, and now we see a drop in 1998 for the first time. We are seeing a drop again because of the decrease in availability of cocaine, particularly from Peru and Bolivia, where we have been successful.

However, we have been unsuccessful in Colombia, where the administration has fought every attempt to get resources and assistance there for the past several years, and turned Colombia from a non-producer, it was a transit and processing country, into a producer of cocaine.

So I think both of these charts demonstrate exactly what has happened when you have a tough policy, and when you have eradication programs that are cost-effective in countries such as the Bolivia model here and the Peruvian model, which would be very similar to what is shown here and presented by the vice president of Bolivia to me today.

□ 2145

So, again, hit from the left by Mr. Nadelmann, we do search for the most cost effective means to deal with this problem. But I think he has missed the point, again, based on the facts and information that we have.

Then a good friend who is a local columnist, but also a national columnist, Charlie Reese, who is well respected from the conservative side, last week, he gave us a broad side on the narcotics issue. He said, what do prohibition and drug war have in common, is his question. Sure failure.

One of his comments is, if we ended the war on drugs, legalized these drugs, and allowed people to buy them by prescription or from carefully licensed and regulated dealers, would everyone in the United States go to Haites and everyone become an addict?

Well, again, I will cite one of the best examples we have of a liberal policy, which I think will soon be changed after this election in Baltimore because of the devastation that it has done in that community. But we have seen an addiction problem turn from a small problem into an incredible problem where 1 in 10 are some of our official statistics, but 1 in 8, again according to elected local official there, are now addicts.

Now, addicts do not come cheap. They have a tremendous cost on the health system, on society dealing with their addiction. I would imagine if we compared the cost of dealing with someone who is addicted and has an addiction problem and, again, their lost productivity, their health problems, supporting their addiction, loss to their families, and employment, economic opportunity, I think we would see a very serious charge in cost to society. We have seen that with the degradation of the community, both from an economic standpoint and from a life-style standpoint in Baltimore.

So I can answer the question for Mr. Reese, does everyone become an addict? No, everyone will not become an addict. But 1 in 10 might become subject to addiction under this liberalized policy.

There are some countries where they have tried to liberalize some of the access to drugs like marijuana; and I would cite here the Netherlands. The Netherlands has legalized in small quantities, they did try this, marijuana. It is sold across the counter in limited quantities, as I said.

In talking with officials recently from the Netherlands, we found, first of all, they have reduced the amount that is available. Secondly, they have not only reduced the amount, but they have increased the penalties. They have gotten tougher on enforcement because they found that the liberal approach did not work. And others that took advantage of this situation, they found themselves also with higher addiction rates.

So we have one example of one narcotic, both with tremendous problems, and both with trying it and then backing off from it. That is just dealing with marijuana.

Mr. Reese in his article goes on to say there is nothing inherently evil in morphine, heroin, marijuana, or cocaine. They each produce certain effects just as other drugs do. But those effects do not cause people to commit crimes.

Here again, I would have to differ with my good friend and columnist on the conservative side, Mr. Reese. We know that these drugs do cause some very serious side effects. I try to cite, not only the statistics in the drug-induced deaths, some 15,200 we were up to last year, the societal costs, which I have cited again tonight, but then some of the other cases that are not reported.

We took the case, I believe it was Baby Sabrina, where the father allegedly was high on cocaine, according to some tapes that were obtained. The baby, everyone in Florida and around the country was concerned about its disappearance, and we find that the child may, in fact, have been a victim of a parent who was involved with cocaine.

The Sheppard case which is so celebrated, the anti-gay case in Wyoming is another case, if one reads below the lines, the individuals involved there admit to being high on narcotics and alcohol. I am certain that that influenced their action.

The New Jersey bus driver we cited who was under the influence of marijuana and some 20-plus people died in that bus accident. Plus we have seen what crack cocaine and the effects of other illegal narcotics have upon people.

So I would have to disagree with Mr. Reese that the effects do not cause people to commit crime. He says what causes the crime is drug prohibition. Again, I would have to disagree with him.

Not to mention the tremendous problem we have with growing illegal narcotics, which is methamphetamine. Now methamphetamine is so common that it has become epidemic through the Midwest and through the West, much of it produced, we have found through our subcommittee hearings and investigations, in Mexico and finding its way into the United States.

But we find that, in fact, methamphetamine and some other drugs,

where they have done these brain scans, a normal brain as shown here, a brain on meth for a short period of time, one can already see the change in some of the brain activities. The next figure here shows meth after some continued use. It almost patterns the last image here which is Parkinson's disease.

So we know that certain illegal narcotics, and that is why they are illegal, have very serious damage to the bodies and the brain. This is what can happen. So we do have this problem in dealing with illegal narcotics.

So I am a little bit hit from the right, a little bit hit by the left on the issue. We are trying to find out what are viable solutions. We have looked at the questions of decriminalization, of treating some of the drug problem more as a health problem. But that has very serious cost implications.

We have also seen that, as we take the liberal turn, we have increased addiction. We have a serious problem with our treatment programs in that very few of them are effective the first time around, and sometimes the second and third time around, and sometimes not at all.

So we increase the level of addiction. We increase the level of potential people who cannot be helped and who have become wards and charges because of their addiction to the State and to the Federal Government, of course to communities and families throughout the country.

So we do take a very serious look at trying to find alternatives to the current way we go after illegal narcotics and drug abuse. But, again, nothing can be more effective than stopping illegal narcotics at their source and stopping the production at their source and then stopping illegal narcotics before they get to our borders. Once they get to our borders, it is pretty much a tough situation for law enforcement.

One time a DEA agent described this to me when I was visiting in South America, he said, ''Mr. Mica, this is a little bit like having a garden hose and having a sprinkler with a 360-degree radius.'' He said, ''You can get cans and go out and try to catch all of the sprinkles from that 360-degree sprinkler or'', he says, ''you can come up here to the hose, and you can choke the water at its source, and it stops.''

That is a little bit of what our Federal responsibility is, with limited number of dollars, we try to stop the illegal narcotics first at their source; and then, as they leave the source, once it gets to the streets and into the communities and schools, neighborhoods, it is almost impossible for our enforcement people to handle.

But we do find that where we do have the zero tolerance policies that we have a much better success rate in dealing with the problem and stemming addiction, stemming illegal activity with again zero tolerance as opposed to the liberalized policy which has been advocated.

Now, that brings us to the point that I also raise about what has taken place. The war on drugs basically was closed down in 1993 with the advent of the Clinton administration, with the advent of a majority in both the House and Senate.

If we look at the areas, again, that I have talked about tonight, the international areas of spending, we see, again, the first responsibility and most cost effective way to deal with illegal narcotics is to stop them at their source.

This chart shows, again, 1991, 1992, in the Bush administration, advent of the Clinton administration, the cutting of international programs. Federal drug spending on international programs, that is stopping drugs at their source, declined 21 percent in 1 year after the Clinton administration took office. Federal drug spending decreased from $660 million in 1992 to $523 million in 1993. This chart shows exactly what took place there.

Now, this is one key element to stopping drugs at their source. The other one, as I said, is the interdiction program; and that is, stopping drugs as they come from the source.

The same thing happened. Again, we have in the beginning of this chart here the expenditures during the end of the Bush administration, the beginning of the Clinton administration, the Clinton administration, the Republican Congress. In interdiction, Federal drug spending on interdiction declined 23 percent 1 year after the Clinton administration took office. Federal drug spending decreased from $1.96 billion in 1992 to $1.5 billion in 1993. So basically we closed down the two primary areas of Federal responsibility.

We cannot have State and local governments and other communities really dealing with these source countries or getting drugs stopped at the border. That is clearly a Federal responsibility.

What is interesting is if we took these charts and we took drug use, and I have had this chart up once before that our staff produced, but these are exact statistics, again, the Reagan administration, it says Reagan administration right here, we go into the Bush administration, a decline in the prevalence of drug use. This is all drugs.

Then we see the Bush administration ending and the Clinton administration, the change in policy, the change in stopping drugs at their source from coming into the country, we saw a flood of drugs coming in. We saw the end of programs to stop drugs at their source. That was a Federal war on drugs. That basically ended. We see this dramatic increase.

This chart, again, every American and every Member of Congress should be aware of, we get to the beginning of the Republican administration where we have restored money back to the 1991, 1992 levels, and small amounts of money in comparison to an $18 billion program. This is maybe 5 percent, 10 percent of that entire program expended on a source country and also on interdiction.

□ 2200

But this shows, without a doubt, that that policy does not work; that we did not have a war on drugs; that when we have a war on drugs, we see a decline and when we do not have one, we see an increase. When we have more of a zero tolerance policy, the same thing, the same pattern occurs.

So, again, in those areas, we have not met our responsibility, or at least the old majority did not meet their responsibility. The new majority did. And we are trying to put things back to the 1991–1992 level as far as our efforts to keep illegal narcotics coming into our country.

What is interesting is we often hear, and some of the liberal columnists and the liberal side also say that we should just spend more money on treatment. And that was part of the mantra of the Clinton experiment that failed. Federal drug spending on treatment programs increased 37 percent during the Clinton administration in 1992 to 1993. We went from $2.2 billion to $3.2 billion.

Now, I will say that I believe treatment is very important. We have had problems with programs not having high success rates, and with high failures rates we do need to sort through that. There is nothing wrong with spending every available dollar we can on treatment programs. But, in fact, that was the policy that we had here, and we see the decreases in the two areas which I mentioned that are so important, and then the emphasis on just treatment.

Federal drug spending on treatment increased 12 percent from 1993 to 1995. Even under the new Republican administration, and we are accused sometimes of reducing spending too much, in this important area we have had a 12 percent increase from the time we took responsibility here to the current funding year. So we have continued to put money into treatment all through this period, but again a change in emphasis.

So those are some of the points that I wanted to make about the war on drugs being a failure, again being attacked by the right and being attacked by the left and some of those folks in between. But we have, as a new majority, tried to act responsibly. We have put some of these programs back together under a Republican-controlled Congress. Under the new majority, Federal drug spending on interdiction was increased 84 percent from 1995 to 1999, and that was to get us back to the level of 1991 and 1992 spending.

Federal drug spending on international programs, stopping illegal narcotics from their source to our borders, was increased 170 percent during the Republican-controlled Congress from 1995 to 1999, again, getting us back to the levels that we were at when we so effectively dealt with the problem of illegal narcotics.

Now, we all know that we have been able to curtail some illegal narcotics coming into the United States, and I demonstrated tonight two examples, very cost-effective examples, both in Bolivia and Peru. I have also spoken about Colombia. Right now about 70 percent of the illegal cocaine and heroin coming into the United States comes from Colombia. How did we get into a situation where Colombia, which some 6 years ago was really not even on the radar screen as far as production of coca, for cocaine, or production of heroin? In fact, there was almost no heroin produced in Colombia.

I think it was a series of very strategic errors by this administration that got us to the situation we are in. And let me cite a little bit of the history of how we got to where we are with Colombia now being the source of about 70-plus percent of the hard narcotics coming into the country.

In 1994, the Clinton administration stopped providing information and intelligence to the Colombians regarding drug flights tracked by the United States, which eliminated the effectiveness of Colombia's shootdown policy. So a very sharp directive by the Clinton administration, a change in policy, first stopping in 1994 the providing of information-sharing.

The Colombians were using information and intelligence we gave them to go so far as to shoot down those trafficking in illegal narcotics. This is the first step in the beginning of the disaster that we are now inheriting, and the American taxpayers will have the tab for in a few more weeks, once we get passed this current appropriations discussion and resolution.

The next step in this failed policy of bringing Colombia to the forefront of illegal narcotics production and activity was in 1996 and 1997. The Clinton administration distorted the certification law that Congress had passed back in the mid-1980s and decertified Colombia because the administration said Colombia was not doing enough in the fight against drugs, effectively stopping all United States anti-narcotics assistance to Colombia.

Now, we passed in the mid-1980s a law that was called the decertification law that basically says that each year the administration must assess if countries are assisting in, one, stopping the production, and, two, stopping the trafficking of illegal narcotics. That is what must be certified. If they are certified as cooperating, then they are eligible for United States foreign aid, financial assistance, and trade benefits. However, we provided in that law, and I remember working on the law with Senator Hawkins and others in the mid-1980s when it was passed, a national security interest waiver.

And certainly it is in the national security interest of the United States to make certain that assistance to a country like Colombia, which was producing illegal narcotics and was a source of illegal narcotics, might be decertified because some of their officials were not cooperating. But also we could grant a waiver, which would allow us to continue giving resources just for the fight against illegal narcotics.

So a law that was carefully crafted to take into consideration situations like Colombia was ignored by the administration. In 1996 and 1997, the administration blocked every bit of assistance into Colombia. So first we had the 1994 shootdown policy and information-sharing policy fiasco and then in 1996 and 1997 a distortion and misapplication of the decertification law by the Clinton administration.

What did that harvest? What were the results? What we did here, after a tremendous amount of effort in 1998, last year, after pressure from many Members of Congress on both sides of the aisle, when we saw what was happening, we finally got Colombia certified with a national interest waiver so that equipment and resources could go to Colombia to fight the war on drugs there. And again, we have to remember that they stopped all of the assistance going into Colombia from basically 1993–94 to 1998.

The results were devastating for Colombia. In fact, according to a New York Times article, published October 25, a few weeks ago, 35,000 Colombians have been killed in the past decade because of the country's internal conflict. And the conflict there is Marxist terrorist groups financed by illegal narcotics activities. According to an Orlando Sentinel article published October 10, 23,000 people were slain in Colombia in 1998 alone.

So if we look at the results from 1996 to 1998, when we stopped all of the aide and assistance, we had 23,000 people killed in Colombia alone in that 1 year. The Colombia National Police reported that since 1990, approximately 4,600 Colombian policemen have been killed in the line of duty, and many of them in fighting against the illegal narcotics trafficking. Again, we withheld aid and assistance for many years.

According to The New York Times, another recent article, 1.5 million Colombians have been misplaced in the last decade because of the country's internal conflict. And I am told in 1 year, over 300,000 were displaced, a tragedy, a disruption of a society equal to Bosnia, equal to the conflict that we have seen in the Balkans, in Kosovo, not only in number of lives taken but in displaced individuals from their homes and their communities.

Now, my colleagues might say, and I have heard some people say this, that I need to tell what the Republicans have done to deal with this. As I said, we put tremendous pressure last year on Colombia. But to go back to 1994, we urged the change in the policy, the shootdown policy and information sharing. We finally did get some minor changes in this. And just in the last few months, the administration has gone back to a policy of providing information sharing. But repeatedly, time after time, we requested the administration to go back to providing assistance.

What was very sad is during this period of time, even resources that we appropriated, the President took some of the money, we know, and diverted it to Haiti. Some of it was diverted to Bosnia. The Vice President, I am told, directed U–2 overflights, which provided information so they could go after drug traffickers and the rebel activity there, he ordered those U–2 planes sent to Alaska to check for oil spills. In the meantime, thousands dead, a civil war financed by illegal narcotics, profits raging, and tremendous disruption.

So Republicans, at every juncture, and since we took the majority, have provided funding, assistance, and requested the administration to move forward. Last year, we provided $287 million to Colombia. This morning, I was to have a meeting with representatives from the Department of State, Department of Defense, National Security Council, and others, who are involved in expending this money and making certain that it gets to Colombia, for a report on where that money has been spent. Unfortunately, that was canceled by the administration this morning.

I think their strategy is to keep as quiet as possible about how the money has been spent, to not come forward and answer questions as to why equipment, resources and what the Congress, the Republican majority, provided to deal with that situation, what has been done with those funds and how that has been expended and what has not been done.

There is also a great reluctance to talk about the $1.5 billion plan that was presented but not officially introduced to the Congress some weeks ago to deal with the escalating problems now that the administration faces.

□ 2215

We face a Bosnia and Kosovo right in our own backyard here with Colombia financed again by narco-terrorists.

What is sad is I held hearings as recently as August of 1999 and found that helicopters, riverine patrol aircraft, crop spraying aircraft, and support equipment that were supposed to be delivered still had not been delivered. And again, under the Republican Congress, we provided resources and hard dollars that should have been there.

As of October 1999, only a fraction of that assistance has been delivered. Unfortunately, again the administration canceled a meeting today to report on what they have done with the balance. I think that is partly due to trying to get the Congress out of town before they present the Congress officially and the American people with a multi-billion-dollar tab for their mistakes and errors in Colombia.

This is a big business, though, for the guerillas in Colombia. They earn, according to a Reuter's report, up to $600

million a year profits from the drug trade. So the Marxist terrorist guerillas are disrupting this country and the region by fueling it and financing it through the profits of illegal narcotics.

In fact, General McCaffrey, who is our drug czar, has said that there is no line and no distinction between the terrorists and narco-terrorists' illegal drug activities. So we have now seen what has turned from a minor problem at the beginning of this administration that could have been contained with the proper policy into a major problem and a disruption of the entire region.

General McCaffrey, again our drug czar, stated in a hearing that we had, ''The United States has paid inadequate attention to a serious and growing emergency.'' I would like to echo his statement.

Unfortunately, now the huge bill and tab comes forward; and, unfortunately, now to this date, we still do not have before the Congress a solid plan to deal with that. And I think they are embarrassed because of the current budget battle and appropriations battle of coming forward with that plan at this point. But we are looking for probably a $1.5 billion tab on those mistakes.

This situation is so serious that last week we had an estimated 2 million people in Colombia who went into the streets and demonstrated for peace. I wish I could tell those Colombians that our policy had not gotten them into this situation but, in fact, it has. And now we are going to pay very dearly.

What is sad about the situation in Colombia, and let me put this up here, we have Colombia down here and we have Mexico through here and we see that narcotics are coming up in Colombia through the Isthmus of Panama, Central America into Mexico. This is, basically, the pattern that we see today.

I have a little better chart showing Colombia specifically and Panama. This shows some of the guerilla activity. But here is Panama right here, a very strategic location. Colombia, the darkest areas are the opium growing areas here. A little bit lighter areas here cocaine.

Now, again, in 1992 there was almost no production. This was mostly a transiting and a processing country. And now we see these production areas. Again, I think all beneficiaries of a failed policy. But we see the strategic location with Panama. And again, if I had the other chart up here, we would see the transiting through Mexico into the United States and the sea routes and these circles here showing the guerilla activity, and now they control about two-thirds of the land area in Colombia.

What is of particular concern to some of us who have responsibility in this area is that this whole problem is now escalating and affecting the region. This region produces, I am told, about 20 percent of all the oil consumed in the United States comes from this region.

Panama, who has been a strategic location, and we have as of today this headline in the Washington Post. It says, ''U.S. Air Force Leaves Panama. A little quiet, but finally yesterday the last wave of U.S. airmen and women pulled out of Panama yesterday when Howard Air Force Base reverted to Panamanian control closing eight decades of U.S. air power.''

Now, we had all of our forward operating drug locations out of Panama right in this area. We have lost that capability in Panama. What is of concern are the reports that I am getting.

Here is a report from a news account last week. It says, a leading Panamanian clerk says continuing incidents along the border of Colombia could affect future Panama Canal operations.''

And this clerk, again his name is Romulo Emiliani, a Roman Catholic bishop, said, ''If Panama falls into instability, the Panama Canal could lose its users.''

Well, in fact, yesterday with a news account that I read, we did lose our base at Howard Air Force Base, not only the strategic military location, but this was the site of 15,000 annual flights into South America, into Central America over the drug producing region. Again, we provided information, sharing, to the Colombians, the Bolivians, the Peruvians and others to interdict illegal narcotics at their source and we were restarting these again in Panama.

One of the problems we have is we have lost this installation. Yesterday, the last Air Force folks moved out. May 1 all flights stopped. That did not come at any small price to the taxpayers. The United States is surrendering 70,000 acres of land to Panama as they assume control of the canal.

The United States has also lost 5,600 buildings to Panama and the resources at the canal. The United States is, in fact, surrendering in the next few days here some 10 to 13 billion dollars in infrastructure to Panama.

There is a great contrast between what the Republicans have done on the narcotics issue in Panama and the Democrats. It is ironic to know that some 10 years ago George Bush sent American troops into Panama because Mr. Noriega, the Panamanian leader, was we know involved in illegal narcotics trafficking and drug smuggling through this region. We sent troops in there and actually Americans died taking back this area and arresting him, and he now is in prison.

This year the Clinton administration is turning back the Panama Canal. What is sad is they have turned the Panama Canal back to primarily red Chinese dominated firms. And that would be bad enough by itself, but in fact almost everyone who has looked at this say they were illegal or corrupt tenders that allowed the Panamanians to give the control, both the Pacific and Caribbean port access, to again red Chinese interests, a great contrast again between what the Bush administration did and what the Clinton administration is doing in the next few weeks here.

What is also a particular concern is that again the instability from Colombia, and this cleric does cite that, will influence Panama has caused destabilization on the Venezuelan side. And even Equador is having difficulty in keeping these narco-terrorists from invading into their border.

So we see what has turned into a small problem a big problem. The price of moving our forward operating locations from Panama now down to Manta, Equador and up to Caracas, Aruba is also of great concern to me as chairman the Subcommittee on Drug Policy. It is a concern because right now we only have a fraction of the previous overflights and information, so we have the possibility of more illegal narcotics coming into our country when we are trying to, in fact, restart these programs.

What concerns me is the administration came forward with their first proposal with $70-plus million to move these locations. Of course, we just lost 10 to 13 billion dollars in getting kicked out and losing 5,600 buildings. So now we have to replace that with infrastructure and expenditures in Equador and also in the Netherlands Antilles. But again, we have the administration having failed to negotiate any long-term agreements with either the Antilles or with Equador.

We have a short-term agreement with one for several more months and another one that expires in April. Then the administration came back after asking for $70-plus million and asked for another $40 million.

I sent some of our staff down to look at what the cost would be, and we may be at a quarter of a billion dollars, according to our staff report and their investigation of this situation, plus not operating at anywhere near full capacity in this arena, which is so important now in trying to keep some of this activity curtailed and on the verge of spending $1.5 billion that the administration, we expect, as the November surprise after Congress exits stage right and resolves some of the financial problems that we have right now.

So that is a little bit of the situation we find ourselves in tonight. It is not a pretty scene. It is complex both in addressing the drug abuse and illegal narcotics activities in the United States, let alone the international problems and challenges we face.

Mr. Speaker, I am pleased to be joined by the gentleman from Indiana (Mr. SOUDER), who is a member of our subcommittee who has done incredible work at great personal sacrifice, tremendous time and effort on the illegal narcotics problem, one of the stars of our subcommittee.

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

The SPEAKER pro tempore (Mr. RILEY). The gentleman from Florida (Mr. MICA) has 1½ minutes remaining.

Mr. MICA. Mr. Speaker, I am pleased to yield to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, I wanted to congratulate the chairman on his leadership and his diligence in coming down here to the House to keep America informed as to this process.

I was privileged to join the chairman when we were in Colombia, Bolivia, Peru, Panama again this last winter, as we have been multiple times.

This week we finally have Blackhawk helicopters going into Colombia that we fought 4 years to get there. It has been a very frustrating process, and I commend the persistence of the gentleman.

The President is quick to make promises to Colombia, as he did to President Pastrano when he was recently here when the cameras were going. But when the rubber hits the road and we are in the budget negotiations, all of a sudden there is not any money for their anti-narcotics force.

I really appreciate the leadership of the gentleman to keep that pressure on, and it is a privilege to work with him and his subcommittee.

Mr. MICA. Mr. Speaker, reclaiming my time, I thank the gentleman for his efforts and others in the Congress, both sides of the aisle. Some serious mistakes have been made in the past. We cannot afford to make them in the future. A lot of hard-earned taxpayers' money is going into this effort, whether it is eradication, interdiction, treatment, enforcement, whatever the expenditure. And then we have an incredible loss of human life and resources that are in this country. So we will continue our efforts.

□ 2230

NORTHWEST TERRITORY OF THE GREAT LAKES, AMERICA'S FIRST FRONTIER

The SPEAKER pro tempore (Mr. RILEY). Under the Speaker's announced policy of January 6, 1999, the gentleman from Indiana (Mr. SOUDER) is recognized for 60 minutes.

Mr. SOUDER. Mr. Speaker, I would like to reiterate what I just said a minute ago as far as the gentleman from Florida's work for many years as a Senate staffer and then as a leader here in the House and has been down in the region for multiple times. You can hear the frustration in his voice about the mismatch, particularly in the past, between the rhetoric and the action. And while General McCaffrey, the drug czar, and General Wilhelm in SouthCom and others are aggressively working to try to interdict these drugs before they hit our country and working with us in multiple areas, this has been a frustrating process because a lot of times over at the White House, the rhetoric is not matching the action. Those who are paying for that are our kids in the streets, families that are being wrecked, our jail systems and prison systems that are clogged with people who have abused illegal narcotics, partly because we have let down our interdiction guard and this stuff has flooded our Nation at a very cheap price and high purity.

I am here tonight to talk about a totally different issue. I serve on the Subcommittee on National Parks of the Committee on Resources. One of my goals has been to work with a number of the historic areas in this country in trying to work with historic preservation. I plan this week to introduce a bill along with many of my colleagues from the Midwest called the Northwest Territory of the Great Lakes, America's First Frontier National Heritage Area. I want to give a little bit of background about this tonight and set up this piece of legislation which I believe has been a long time in coming and is a very important thing for the Midwest.

Many people are not even aware of what the Northwest Territory is, and that is why we have to put the Northwest Territory of the Great Lakes. They think it is someplace up in Canada or somewhere around Washington and Oregon, in the northwestern part of the continental United States, but in fact the Northwest Territory in the famous Northwest Ordinance of 1787 was America's first western frontier. At the end of the American Revolution in the treaty with Great Britain, we all of a sudden received lands that heretofore had not been part of the Continental Congress of the United States Government. So even while we were under the Articles of Confederation, they were busy putting together the first guidelines of how a democratic government would work in new areas. In 1785 they passed laws on how to subdivide the land, which we still largely use today, as new settlers were moving in and what relations, good and bad, we would have with Native Americans, the Indian tribes in those zones.

Basically the Northwest Territory, which did not have State divisions at that point, and this map, I want to thank the Library of Congress for this. They somewhat cut off the eastern side of Ohio but it is Ohio, Indiana, Michigan and Illinois that were the original Northwest Territory. This area of Wisconsin that includes part of Minnesota at that time was part of Illinois, and so for the purposes of our act, up until the point of the end of this pioneer period, Wisconsin would be included but actually Wisconsin became a separate territory as did Minnesota and historically, while geographically was part of that Northwest Territory, was not considered as a territory or State. In other words, once there were significant numbers of people there, they were not really part of the Northwest Territory.

At the point of the original Northwest Territory and the Ordinance, there were not very many people here. The bulk of the people were in the eastern side of Ohio, just across from Pittsburgh, pretty heavily around Cincinnati, and some in the southern part of Indiana, a few in Vincennes, in the southern part of Illinois, some along the Ohio River. The rest of this was Indian land, a few scattered French villages where traders of questionable allegiance were still located and a number of British forts. The British were in fact supposed to have left this territory but did not. They were still in the Detroit area, up in the Mackinac area, in the Fort Dearborn area, around Chicago, and did not really leave until John Jay's treaty later, just before 1800, around 1793 to 1795. They started moving back across over to the Windsor, Canada, area, but amazingly they still kept some Canadian troops down as far as what is now Fort Wayne and other critical points, as well as British agents stirring up the different tribes in hopes of coming back. And then once again around the War of 1812 time, the British came back in and it was not really until the War of 1812 that this really became part of the United States rather than Canada, which is another important part of this.

At the time that the British ceded this to the United States, the Native Americans continued to claim all of Ohio down to the Ohio River, most of Indiana, all of Illinois and basically all of Michigan. So while the British gave us control of this, they gave us control without treaty and without any justification as far as the Indians were concerned. The British felt they could continue to control that area, so they did not give it up.

So why should this be a heritage area and what are we looking at here? First off, we are defining this fairly tightly. The period that would be covered is from 1785 until 1830. Why 1830? By 1830, even northwest Ohio was starting to get fairly well settled. We have not finalized it, maybe 1835, 1830, but somewhere in that area. A book on the Ohio frontier considers the end of their frontier period at 1830. Indian removal in Indiana finally occurred in its final stages in the 1840s. Michigan by 1840. The degree that they had settlers there, most of them by that point were farmers which is a sign that it has been pacified and the pioneer period is certainly down. In Illinois, it was starting to get pretty heavily settled from central up and some around the Fort Dearborn/Chicago area, and really after the Black Hawk so-called war where the Indians were removed from Illinois, that time period around 1830, 1835 was really the end of the frontier period.

So the sites that would be covered by this heritage area would fall first in a date period of 1785 to the middle 1830s. What is the dominant thing and why did I select tonight this particular map? One of the things that becomes really apparent is there were not highways, there were not canals, there were not railroads, there were not air systems. The United States in that period was defined by its rivers and rivers were our highways. In other words, to understand the Northwest Territory, or

really any part of the United States and any part of any heritage area that we should do should start with the topography, it should start with the geography and with the landscape and nature itself, because that is really what our heritage is and that is how we largely developed. If it was not actually around a river or the Great Lakes, which is really a defining region as well and also another major part of communication, the other way it could get defined is, for example, the capital of Ohio is Columbus. Why Columbus? Because it is right in the center. The capital of Indiana is Indianapolis, right in the center. The capital of Illinois is Springfield, right in the center. The capital of Wisconsin is Madison, right in the center. The capital of Michigan is Lansing which is just south center but certainly the center between Grand Rapids, Kalamazoo and so on and Detroit. In other words, if it was not a river that determined it, it was still geographical that your capital was in the center of where the people were. That was even true in the early days. The first capital in Indiana, the territorial capital was in Vincennes because that was the kind of population center, that is where William Henry Harrison was based. The first state capital was in Corydon because most of the people were in southern Indiana. The first capital in Ohio was Chillicothe because that was kind of where the people were between Cincinnati and the eastern side, and then it moved up to Columbus, in between Cleveland, Toledo, Cincinnati and the different cities. So you can understand first the heritage of an area by understanding its geography.

Now, a couple of things jump out from this. First off, the importance of the Ohio River. There would be no Lewis and Clark adventure if we had not settled this area first. For one reason, if you could not control the Ohio River, you could not get to the Missouri River and to go to the West. Thomas Jefferson understood that and he knew that unless he could get pacification and settlement in this area, he was not going to make the Louisiana Purchase, that is why this is the first frontier, and he was not going to send Lewis and Clark out. In fact, Lieutenant William Clark was not worried about going to the Pacific Ocean, he was up in the area at the Battle of Fallen Timbers and other battles in this area because this was the first frontier.

My hometown of Fort Wayne, Indiana, was important for another reason. If we had a larger U.S. map here, if you started and came in from Quebec City, which at that time was the key French settlement and went down through Montreal and then wanted to get to New Orleans, you would go down through the St. Lawrence River, down through Lake Ontario, Lake Erie to around what is present day Toledo, come down the Maumee River, at the Maumee River there was a portage at an Indian village called Kekionga. In Kekionga there was a small portage, you could either go to Boy Creek, Little Wabash, and connect with the Wabash River which then went down Indiana, all the way down to here, connected the Ohio River, which then connected the Mississippi River, which was then, of course, New Orleans.

Now Chief Little Turtle, the war chief of the Miami Indians of Indiana, said and referred to the village of Kekionga as that ''glorious gate which the Miamis had the happiness to own and through which all the good words of their chiefs had to pass north to the south and from east to the west.'' What did he mean by that? Since that was the only portage of navigable rivers for the French, it became a critical area. In fact one French fort, two British forts and two American forts eventually were at that location now called Fort Wayne, because it was not only critical this way but there was as much traffic if you wanted to go from this Great Lake to this Great Lake. You had two choices. Either go up like this and all the way through the straits of Mackinac and on down or you could come into Fort Wayne, portage and come to Fort Dearborn this way. That is what Chief Little Turtle meant when he said it was east-west and north-south. It became a critical junction.

There were other critical junctions as well, some less important. For example, to the Indians, this area of the Great Miami River which Anthony Wayne later went up and the different battle things was never really an important navigable river to the modern Native Americans because there were always settlers pushing in along the Ohio River and it was a battle zone and not somewhere where the Native Americans really developed a stable community or was within their own land structure. The French and the British tended to concentrate up in these zones. The fur trade was better here, the timber trade was better and they tended to be concentrated up this direction. The settlers coming across into Kentucky and across from Pennsylvania were tending to come further south.

So you have to understand the geography. Now, understand the importance of this Northwest Territory. If this had been part of Canada from here up, we would have lost the agriculture, the farm belt of the United States, some of the best producing agriculture land, timber land, iron and copper and many of the critical natural resources that today are so important to our country.

There were also critical battles here that were decisive in the settlement of the United States. Among the important battles was where Harmar and St. Clair were defeated, eventually Anthony Wayne came up, this area along the Great Miami River, the Indians fled from Kekionga and Fort Wayne to try to get up by the British at Fort Miami by Toledo and at the Battle of Fallen Timbers was really the major breakthrough for the United States settlement of the Midwest. After that period, the next big battle was the Battle of Tippecanoe where William Henry Harrison won right near Lafayette and what is now Purdue University. There also was a battle just across from Detroit over in Ontario, the Battle of Thames. The battle which is now celebrated at Put-in-Bay where Commodore Oliver Hazard Perry defeated the British in control of the Great Lakes and really settled the fact of whether this was going to be part of Canada and the United States. So there were a number of very critical battles.

There were also a lot of interesting people. Mad Anthony Wayne as he was called is certainly an interesting individual, very important in the American Revolution. At Stony Point, at Valley Forge, other critical battles. In fact, we have a number of his items in Fort Wayne at our Allen County Historical Museum. Next Monday we are having an official dedication of a new letter for our public library in the Indiana Collection. I include the following material for the RECORD at this point.

RARE GEN. WAYNE LETTER DISPLAYED AT LIBRARY

(By Bob Caylor)

A magnificently preserved Revolutionary War letter written by Gen. ''Mad'' Anthony Wayne will find a place of honor in the city that grew from a fort he founded.

The letter was written by Wayne in 1782, just three days before his troops met the British in a skirmish along the Combahoe River in South Carolina. Theirs would be the last American-British fighting of the war.

The letter was donated to the Allen County Public Library earlier this year. The library will place it on display in its rare-books room in a dedication ceremony Monday.

Gen. Wayne, a surveyor before the war began, was not a prolific correspondent like many of the Founding Fathers, and letters from his pen are uncommon.

''Apparently they are fairly rare,'' said Steven Fortriede, the library's associate director. ''As far as we know, there's nothing similar in Fort Wayne.''

Bringing the letter to Fort Wayne took the combined efforts of a Fort Wayne history buff, a circle of generous donors and a Noblesville man who trades in rare military artifacts.

It began early this year, when Duane Arnold, owner of the Gentleman Soldier Gallery in Noblesville, learned a private collector in Indiana was looking to sell the letter. It had been in his collection for about 20 years, and he likely would have sold it out of state, Arnold said.

''I thought if possible, we should try to keep it in state,'' he said.

Arnold, who was born in Fort Wayne, has clients in this area. Among them is Fort Wayne attorney Jack Lawson, who collects Revolutionary and Civil War weapons.

''Jack is someone who's very interested in history and very committed to Fort Wayne,'' Arnold said.

He showed Lawson, the letter, and Lawson hit on the idea of finding donors to divide the $10,000 price and then donating the letter for public display.

Hew had no trouble finding takers.

''Once it was explained to (potential donors) what the letter was and what its historical significance was, we had no difficulty,'' Lawson said.

Mostly, he appealed to donors' civic spirit.

''This belongs to Fort Wayne. It would be a monument for the city,'' he told them.

Wayne's letter was written Aug. 24, 1782, from Drayton Hall in South Carolina. In it, Wayne tells Gen. Nathaniel Green what forces he believed he would need to handle the British.

Drayton Hall, incidentally, survived the devastation of the Civil War, adding another dimension of historical appeal to the letter.

''We can see the house. We can imagine the room in which Anthony Wayne actually wrote the letter,'' Arnold said.

Gen. Wayne's military career converged with local history a dozen years later, when he led an American army in a campaign against Indians through what is now Ohio and Indiana. His Fort Wayne at the confluence of our three rivers was established in 1794.

Arnold said Wayne's military success against Chief Little Turtle opened the path to settlement here much earlier.

''Without Anthony Wayne's actions, it's extremely unlikely that Indiana would have been achieving statehood within about 20 years after that time,'' he said.

[From the Allen County Public Library]

WAYNE'S LETTER TO GEN. GREEN—DRAYTON HALL, 24 AUGUST, 1782

'DEAR SIR: If a detachment from this army be deemed expedient to prevent the enemy from effecting a forage at Combahe I wish to take charge of it; two hundred infantry & one hundred dragoons with two Howitz (ers; ed. note) will be fully adequate to the business and to make the Britons suffer for their temerity should they commit themselves on shore.—The horse can be foraged, & the troops rationed without difficulty, whilst on this duty.

Yours very sincerely,

Anthony Wayne.

N.B. Should this request then meet your approbation I would wish to march this evening at—biding.

This letter is a letter that Anthony Wayne wrote regarding his preparations in putting together this battle, and this article details how this letter came into possession, how often historic letters like this are lost, and also gives some background on Anthony Wayne which I am going to read briefly here. He was nicknamed ''Mad'' long before he founded Fort Wayne. I am reading from Bob Caylor's article in the Fort Wayne News-Sentinel this afternoon.

□ 2245

Naturally it is not easy to separate romantic lore from fact when it comes to Revolutionary War heroes, but an appealing tale purports to explain the general's nickname. In 1779, General Washington summoned young General Wayne, then only 34 years old but already distinguished in battle, and asked him to storm Stony Point, a British fort on the Hudson River. Stony Point was a forbidding target. It sat atop a high rocky hill surrounded by water on three sides. The only land approach was through a marsh that flooded daily. Anthony Wayne was not put off. ''General, if you will only plan it, I will storm hell,'' Wayne told him. ''Perhaps, General Wayne, we had better try Stony Point first,'' Washington responded. Overhearing this exchange, a soldier exclaimed Wayne surely was mad, and a nickname was born.

Now, after two devastating defeats of the American armies, the largest defeats in American history, other than at Wounded Knee, and arguably St. Clair's defeat was a lot more significant and larger than Wounded Knee, one occurred right at Fort Wayne where Harmar's army was set back and had to retreat in disgrace, and St. Clair lost something on the order to wounded and injured 80 percent of his troops in that, General Washington said unless we can control the junction at Kekionga, the West will be lost. And he said I have to call Anthony Wayne out of retirement.

Mad Anthony Wayne trained for a year, set up a string of forts through Congressman BOEHNER's district all the way up to Fort Recovery in a whole string, because he wanted to make sure, unlike St. Clair and Harmar, that he had the supplies behind him as he moved into this tricky territory.

Little Turtle, who was the war chief of the Miamis, kind of saw the handwriting on the wall. In fact, this is a description from a book about Anthony Wayne by Harry Emerson Wildes that is fascinating commentary on Little Turtle, but also on Anthony Wayne.

Little Turtle, tall, sour disposition, crafty war chief of the Miamis, was inclined to head Wayne's invitation to negotiate piece. The 40 year old warrior, veteran of both the Harmar and St. Clair campaigns, called his fellow chiefs into conference. Standing straight before him, his foot long silver earrings jingling as he tossed his head, his 3 huge nose jewels glittering in the firelight, he told Stalwart Buckongehelas, leader of the Delaware Indians, and Blue Jacket, Shawnee war chief, that Indian luck had been too good to last.

Now, this is part of the remaining what remains of Little Turtle's speech.

We have beaten them twice under separate commanders. We cannot expect the same good fortune always to attend us. The Americans are now led by a chief who never sleeps. Night and day are alike to him. Notwithstanding the watchfulness of our young men, we have never been able to surprise him. Think well of this. There is something that whispers to me it would be prudent to listen to his offers of peace.

Now, in fact Little Turtle because of Blue Jacket and Buckongehelas leading the Delawares and the Shawnees and many Miamis into battle, they did have the battle with Anthony Wayne. Anthony Wayne then defeated them at Fallen Timbers. The British would not allow them into their fort. At that point the tribes scattered. Anthony Wayne marched back down the Maumee River to control the junction at Fort Wayne that was so critical and build a fort. Later there was a second fort built there as well and on a little bit higher ground.

Now, that fort, Anthony Wayne left a strong garrison there, because he knew they had to control that junction. Then he marched back down to Greenville. Little Turtle and the other Indian chiefs wanted to have the peace negotiations up in Fort Wayne. Anthony Wayne figured out that if he went up to Kekionga, he would be too far and separated from the Great Miami River where the supplies came. So he said you have to come down to Greenville.

After much kicking around, after all, they had been defeated and most of their crops had been destroyed, the Indians reluctantly came to Greenville, and the Treaty of Greenville became really the first big treaty in the settlement of the Northwest.

I will also mention Commodore Oliver Hazard Perry. William Henry Harrison, I have a document that I want to show here too, this beautiful piece of political and historic memorabilia that has been loaned to my office by a friend of mine, Mike Tonger, who has a business here in town, and he has let us display this in the front office. This is a scarf, often one of the pieces of political memorabilia that people would distribute or collect related to different campaigns.

General William Harrison, Indiana has no native born presidents of the United States, but we have two that spent significant, actually three, that have spent significant time in Indiana. Two of them are Harrisons, who are from Virginia, Benjamin Harrison, who was in Indiana at the time he was elected president, and William Henry Harrison, who headed the Indiana territory and fought many battles in Indiana, and then our third is Abraham Lincoln. Abraham Lincoln was born in Kentucky, finished his life in Illinois, but, as we say in Indiana, Indiana made Lincoln, Lincoln made Illinois.

But William Henry Harrison spent much of his life in Indiana. Because after the period of time from when Anthony Wayne won his battle and the Treaty of Greenville we had a period of peace, but it was a very restless peace. And William Henry Harrison, then in charge of the Northwest Territory, based down in Vincennes, Indiana, William Henry Harrison was constantly pushing the Indian tribes for additional land concessions, because people wanted to move up from the Ohio river and farther up into different states.

He had two treaties, the First Treaty of Fort Wayne, the Second Treaty of Fort Wayne, there were a couple of other treaties, but that was causing a backlash among the Indian tribes in the Midwest. Probably one of the most dynamic Indian leaders, much written about, very colorful, dramatic, what, charismatic leader, it was Tecumseh. Tecumseh decided what was needed was the Indian tribes to separate their kind of competitiveness and develop into a confederation. This confederation was his dream. He even went to the southern parts of the United States to recruit different Indian tribes, saying look, these Americans are coming across, they are taking our lands. No matter what they tell us, all they want is more lands. They cheat us, they give us beads and a few dollars and take thousands of acres. We need to unite as a confederation.

He won some allies in the south and brought them north. But while he was away his brother the Prophet, so-called, there is a lot of debate why the Prophet got his name, he clearly had one eye, was very colorful, was a medicine man of some sorts, he basically was trying to stir his people to earlier action, got a little restless.

William Henry Harrison sitting down there in Vincennes, said now is a good time to teach these guys a lesson. He marched up from Vincennes to what was called Prophet's Town. Prophet, because he was giving these mystical trances and dances and celebrations, was gathering a lot of Indians around, including many Miami from the Kekionga area, who, while their chiefs were not too enamored of this, a lot of their young braves felt the older Indians were giving up too soon, and so many of them joined the Prophet.

William Henry Harrison marched up, they had some exchanges, a lot of debate about what exactly happened here, but basically common historical assumption would be that one night when the Indians were celebrating and drunk, William Henry Harrison walked in and wiped them out. That, of course, became the famous battle of Tippecanoe, which was the slogan that led him to be President of the United States, Tippecanoe and Tyler too. Tyler, of course, was the Virginian who became president, because Harrison got pneumonia when he was giving his address here at his inaugural address, got pneumonia and Tyler became another one of the accidental presidents. But it was the battle of Tippecanoe that led to the slogan.

Now, the Whig party never really did elect a president based on any Whig principles, which were kind of whatever the other party wasn't. But they had great slogans and they often ran generals, like Zachary Taylor and William Henry Harrison.

You can tell from this famous historical piece of political memorabilia here that what is notably from this it is not a party platform. It is not like when William Henry Harrison is elected, this is what he is going to do. What it says is here is the hero of Tippecanoe, William Henry Harrison, hero of Tippecanoe. These barrels say hard cider, which is basically alcohol, and so he was known as the log cabin and hard cider man.

The slogan here talks about the log cabin, how he was born in a log cabin. It talks about him being a hero of Tippecanoe. The glorious field of Tippecanoe to the log cabin of North Bend.

Now, that is the pitch that William Henry Harrison had, not that he was going to lower taxes, keep government small, build more rivers. It is that you are going to get a lot of hard cider, he was from a log cabin, and he won this battle of Tippecanoe by blind-siding the Indians when they were drunk.

Now, beyond that William Henry Harrison was actually a pretty good territorial governor. He won the battle of Thames over by East of Windsor that was very important and seemed to be good at balancing the politics of the era, and part of his political skill was that he did not put out a party platform. He ran on hard liquor and log cabin and the battle of Tippecanoe.

I mentioned earlier Lieutenant William Clark of Lewis and Clark fame was here. I mentioned Tecumseh, the Prophet. Blue jacket is a half breed, as they would say, part anglo, part Native American, who became the leader of the Shawnee. In Ohio they have one of the state parks, a famous play about him that you can go see at night during the summers. There are a number of books about him. He was a fascinating character.

A number of other interesting characters in the Northwest Territory were Arthur St. Clair, who, even though he had the most humiliating defeat in American history, became a Governor of Ohio. He did not understand why people wanted to join Jefferson's party and kind of went down as a sour old man with that. But was a very significant person, has St. Clair's, Ohio, and other places named after him.

In Indiana, we had Jonathan Jennings, our first Member of Congress from Indiana, key settler in the Corydon area. William Wells, who married Little Turtle's daughter. William Wells, nobody trusted William Wells. He married Little Turtle's daughter. When Anthony Wayne is marching up to try to defeat the Indians, William Wells is working as his scout. Meanwhile, Henry Harrison never trusted him because even though he was on the side of the Americans, he never knew whether he was working for Little Turtle or the Americans, or, as is more likely the case, himself, whichever served best.

But in the end William Wells died serving the American government, because he was sent over to Fort Dearborn in Chicago during this period between wars, between the settlement of the Treaty of Greenville and the War of 1812, William Wells was told to evacuate the people at Dearborn in spite of the fact there were warnings of an ambush, and he was ambushed and massacred along with all the other people from Fort Dearborn, with the exception of just a couple who escaped.

In Fort Wayne we have a number of things named after William Wells, Wells Street. We have one of the major streets along near the Kekionga Village area and where the forts were is called Spy Run, because he was a spy. Just south of Fort Wayne, the first county to the south-southwest is Wells County. So many of these names are still historic.

I wanted to touch on one other interesting person from this time period related to my home area, and that is Johnny Appleseed.

Johnny Appleseed, like many other settlers, came in after this period of the War of 1812 and the frontier opened, all of a sudden settlers came in. Johnny Appleseed was born in Ohio in 1774. The first reference to his name, and he is buried in Fort Wayne today. The first reference to his nickname Appleseed is found in a letter from William Slaughter to Reverend Haley of Avignon, Virginia. ''That was Mr. John Chapman whom you must have heard me speak of. They call him John Appleseed out there in Ohio.''

The first discovered order for apple trees was in 1818. He was just a really interesting gentleman. We have a Johnny Appleseed stamp that was issued by the post office. This is his grave site. This is actually something that was done in probably third grade by my son, because Johnny Appleseed is a big folk hero in Indiana. It says, ''Johnny Appleseed, bright red and shiny; some are big, others tiny; one bite and you will see, just how delicious an apple can be.''

Now, how did this, you know, start and what kind of guy was Johnny Appleseed? Well, he was an interesting character. In fact, let me just read this description about him. That he was known for having, what this is is a pan on his head, because he would walk around, he would have this pan on his head, move around, talk to different people, and it said he had such a remarkable passion for rearing and the cultivation of apple trees from the seed and pursued it with so much zeal and perseverance as to cause him to be regarded by the few settlers just then beginning to make their appearance in the country with a degree of almost superstitious admiration.

He also believed, and in the reason he planted apples, and he systematically did this. For example it said that he would clear a few rods of land in some open part of the forest, girdle the tree standing around it, surround it with a brush fence and plant his apple seeds. This done, he would go off some 20 miles or so, select another favorable spot, and again go through the same operation. In this way, without family and without connection, he rambled from place to place and employed his time, I may say, his life, planting apple trees.

□ 2300

His goal was to live for others. His dad was a preacher. He was an itinerant pastor as well, and frequently preached. His goal was to serve others.

One other interesting reference to this period, anybody living in the frontier period had to be aware of the battles and the conflict between the Native Americans and the American settlers.

So Johnny Appleseed himself, according to a man named Amariah Watson of Washington Township, said that during the war of 1812, Chapman, like Paul Revere, he was called the Paul Revere of the Midwest, sped through northern Ohio to warn settlers of expected Indian attacks on frontier outposts. This is at the start of the War of 1812. The British were arming the Indian tribes.

What this man who was a contemporary of Johnny Appleseed reported was Johnny Appleseed traveled through like Paul Revere, running from village to village shouting, ''Flee for your lives, flee for your lives, the British and Indians are coming upon you and destruction followeth upon their footsteps.''

There was a more colorful version that supposedly Johnny Appleseed said, but the other is more likely, because this is a bit long to go running from house to house. It fits, kind of, the preacher. ''The spirit of the Lord is upon me and he hath anointed me to blow the trumpet in the wilderness, and sound an alarm in the forest; for, behold, the tribes of the heathen are round about your doors, and a devouring flame followeth after them.''

So even Johnny Appleseed played a role in this period of the Northwest Territory, in the settlement. So we had a lot of interesting people that were involved, and it is part of American history that is often overlooked.

We also had a number of historic sites, such as the Battle of Fallen Timbers. This Thursday in the Subcommittee on National Parks we are having a hearing on a bill from Senator DEWINE of Ohio and the gentlewoman from Ohio (Ms. KAPTUR) regarding expanding this as a national historic site and developing this.

I am a strong supporter of this legislation because I believe the Battle of Fallen Timbers has been too long ignored. The Battle of Tippecanoe, which is now being developed at Prophetstown, Indiana, our newest State park in Indiana where we will have our first museum. It is not called Angloana or Germanana, even though a large percentage of the population is Germans. It is called Indiana. Other than the Eiteljorg Museum of American Indian art, we have no museum in Indiana paying tribute to our Native Americans. In Prophetstown, this will be corrected.

In Fort Wayne, we have the Chief Richardville House. Little Turtle was the war chief of the Miamis. Chief John Baptiste Richardville was the Miami civil chief from 1816 until his death in 1841. His house, now we are sorting this through, may be the only remaining Native American building east of the Mississippi. It certainly appears to be the oldest Native American building still standing east of the Mississippi.

Richardville was known, at least by legend, as the richest Indian in this country. This trade center, it is one of only a few of these buildings that were known to exist. It is the oldest known Native American structure east of the Mississippi still located on its original site. Some have been moved to different complexes, but this is actually at the site where it was, a Native American structure.

Indiana is finally taking the means to start the project. Senator Thomas Wyss of Fort Wayne and David Long helped secure $150,000 of Indiana funds for the Richardville house. This needs to be matched and developed. It needs to become a State historic site. On top of that, this Saturday it is going to be recognized as part of the national Save America's Treasures project coming out of this administration and through the National Trust for Historic Preservation. It is a very important site that we need to preserve in Fort Wayne because Richardville was the leader of the Miami Nation, their civil chief, for many years.

In fact, down in Huntington, Indiana, we have the La Fontaine house roughly shortly after that time period. La Fontaine is interesting, as well. He was the son-in-law of John Baptiste Richardville, and was the last Miami chief before the Miami Nation was removed from the State of Indiana. The forks of the Wabash down at Huntington is a critical area, as is Mississinewa.

I would be remiss if I did not point out a couple of the other historic sites that will be named specifically in our bill.

I mentioned the capitals, like Corydon and Chillicothe, but in addition, the Straits of Mackinaw were a critical trade route to the fur trade and others, and were battled over by the French and British. Until the war of 1812, it really was not established that that was going to be under American control at Mackinac as well as at Mackinaw. I also mentioned the Treaty of Greenville. One of the more important settlement roads was Zane's Trace in Ohio.

What this heritage area is going to try to do is pull together the time periods, 1785 to 1830. It is going to try to pull together these geographic boundaries of Ohio, Illinois, Michigan, and Illinois, including Wisconsin, highlight the sites of significance to that time era only, market and connect them together thematically, promote the preservation, education, and utilization of such sites, which could include additional land, interpretive centers, and other appropriate development.

Once again I want to go through these critical periods. Attempted American settlement and the resulting wars, the Indian counterattack, the Americans' final victories during the War of 1812, then the American settlement accelerates and demands land. Then, as part of that, in spite of the promises made over and over to the different Indian tribes, those treaties were broken, and eventually the Indians for the most part were removed from the Midwest to Oklahoma, to Iowa, to Kansas, and to the west, and laid on top of the other Indian tribes, which caused some of the later conflict.

In addition to the rivers, we have our Great Lakes, our farmland, our resources. We have Indian Nations: the Miami, the Shawnee, the Delaware, Potawatomie, the Chippewa, the Sac, the Ottawa. We have the different battles, the traders, the settlers. Then the one thing I want to spend a little bit more time on are a number of the Indian chiefs.

We hear so much about the Indians of the Southwest and the West, and so little about those in the Midwest. Yet, think about a couple of points here. One is, California, New Mexico, Arizona, Utah, Nevada, do not together equal the population of the four Midwestern States, Ohio, Michigan, Illinois, and Indiana. Their number of Native Americans did not equal the number of Indian nations. They certainly did not achieve the success in war against the American armies that the Indiana nations of the Midwest achieved.

While they have creative pottery, there are remnants of creativity from the Midwest too. It is just that, quite frankly and bluntly, we did not do as good a job of preserving that in the Midwest because we removed them. It does not mean that the history is not there and that we should not look to preserve that history.

We have bits and pieces of this in Indiana. Chief Leopold Pokagon, whose village, Pokagon Village, was just across the Michigan line, just north of Notre Dame and St. Mary's on U.S. 31 and then just west, but Leopold Pokagon and his son Simon Pokagon have a State park named after them in my district, Pokagon State Park, and the Potawatomie Inn there. We finally started to pay tribute to the Potawatomies in Indiana, who have been ignored, much like the Miami were.

Right near my hometown where I grew up in Graybill, the town of Cedarville, now Leo-Cedarville, at that critical junction of the Cedar Creek and St. Joe River, there is Metea Village. Now we have a small county park there, Metea Park. We are starting to pay some recognition to him.

We have other Miami chiefs who have been ignored: Pecan (Pecanne), who is up near the Elkhart area, and LeGris, and Hibou, the owl. They were other important Miami chiefs. One of my favorites is Bad Bird, the chief of the Chippewas. We had many different interesting Native American leaders.

One kind of unusual story is Francis Slocum, Maconaquah, who was captured at age 5 in Wilkes-Barre, Pennsylvania, was transported to the Mississinewa River. Her husband died. She raised her two girls. She was discovered by a Mr. Ewing at Mississinewa when she was very old.

She had so acclimated herself and become such an Indian herself that when they approached her about leaving, she said, to go back in the Anglo civilization would make me like a fish out of water. She said, I am now an Indian, a Native American.

There are many stories like Francis Slocum that exist in our heritage that we need to do a better job of preserving. So I am pleased that most of the Members of Congress, Republican and Democrat, from our Northwest

Territory area are going to cosponsor this. We are looking forward to hearings here in Washington and in the field, and working with the Governors of each State in developing this. I think it can be a big asset.

In the Midwest, unlike in the West, where they have many national parks, and the East tends to have historic sites and fewer parks, the West tends to have national parks, in the Midwest we have very little. We have very little that helps us develop for tourism, we have very little that helps us develop different assets in our community.

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I think this is one step toward some equalization in developing the history of the Midwest, and I am excited and looking forward to doing this. As we develop a management entity with this, this can be one of the most exciting things that has happened in the Midwest for many years.

I also want to take a few minutes tonight because today was an important day. One of the things in the northwest ordinance and in American history that we value most is the ability to participate in electing our own leaders. Today was a very important day in Indiana, because we elected mayors and city council members across the State and in my district.

For those who first say that their vote does not matter, we have had an extraordinary number of extremely close elections tonight. Some of these are still pending. Fort Wayne, the biggest city in my district, around 230,000 people, it appears, but it is far too early to say, even though 99 percent of the vote is in, that in a very close vote, both candidates are friends of mine, both of them ran tremendous campaigns, but the Democratic candidate for mayor appears to be pulling an upset, but right now is ahead by 174 votes out of way over 40,000.

Whoever of these candidates ultimately is our mayor we can be proud in Fort Wayne in working with them because they ran a terrific campaign. But once again, this shows the importance of every person participating in finding good quality candidates and then people participating.

In our city council races in what were expected to be not very close races, Tom Freistroffer, a Democratic candidate, right now is 129 votes ahead of the third place person on the Republican ticket, my friend, Rebecca Ravine.

All three Republican candidates were outstanding candidates, as were the Democratic candidates. This is an unusual race in the sense that we did not have anybody who was really a weak candidate. Tom Freistroffer, even though he is a Democrat, was a Notre Dame grad, so I appreciate him very much for at least that. But I am still hoping the Republicans pull out this election tonight.

It was extraordinary. We had an upset in another city council race in one of the councilmanic districts. We have another one that was decided by barely over 100 votes. In New Haven, Indiana, the election there was decided by only 145 votes. In Kendallville, Indiana, the vote was won by the incumbent mayor over Suzanne Handshoe who ran an excellent campaign, but the Democratic mayor hung on in that race by about 180 votes.

In Auburn, a close friend and supporter of mine, won the mayor's race there by about 400 votes. The Republican in Columbia City, Ronald Glassley, pulled a big upset and won that by 48 votes.

In Huntington, the incumbent mayor was defeated by an overwhelming margin by a person, Terry Abbett, who had won a number of races and who always runs really well, but nobody expected he got nearly 70 percent. That was not one that was a cliff hanger.

But it is important to understand that the recruitment first of quality candidates by both sides is always important in the electoral process. The second is, once again in Indiana tonight, in a big upset in the Indianapolis mayor's election, potentially in Fort Wayne, other parts of Indiana, very close vote margins.

When you hear the debates we have here on the House floor and you hear the kind of combat that is occurring and you wonder how come people cannot just sit down and work these things out, our country right now is very closely divided between the two parties. Election after election is showing this. That means we rub hard at the edges. Because what we do on this floor, what we do in mayors' offices and governors' officers are very important to the future of this country.

The project that I spent most of my time talking about tonight, the Northwest Territory, anchored the first American attempt to spread the American philosophy of democracy beyond the original 13 States and into the northwest. It talked about the promotion of religion, the promotion of education, the promotion of good citizenship, how we would set up property values, how we would set up the respect for law.

That is what we should be concentrating on in this country, regardless of whether one is a Republican or Democrat, is how to uphold the traditions, the history and kind of all that went before us, all that is going on now, and we want to pass that on to the next generation. Part of that is understanding how we got where we are, and it is critical to understanding where we will go next.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. SAWYER (at the request of Mr. GEPHARDT) for today after 6:25 p.m. and November 3 on account of illness in the family.

Mr. DIAZ-BALART (at the request of Mr. ARMEY) for today on account of family reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. BROWN of Florida) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. BROWN of Florida, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. GOSS) to revise and extend their remarks and include extraneous material:)

Mr. GILLMOR, for 5 minutes, November 3.

Mr. METCALF, for 5 minutes, today.

Mrs. KELLY, for 5 minutes, November 3.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker.

H.R. 2303. An act to direct the Librarian of Congress to prepare the history of the House of Representatives, and for other purposes.

H.R. 3064. An act making appropriations for the District of Columbia, and for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

ADJOURNMENT

Mr. SOUDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 15 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 3, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5099. A letter from the Administrator, Department of Agriculture, transmitting the Department's final rule—Sanitation of Requirements for Official Meat and Poultry Establishments [Docket No. 96–037F] received October 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5100. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Aeration of Imported Logs, Lumber,

and Other Unmanufactured Wood Articles That Have Been Fumigated [Docket No. 99–057–1] received October 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5101. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Propargite; Partial Stay of Order Revoking Certain Tolerances [OPP–300891A; FRL–6390–4] (RIN: 2070–AB78) received October 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5102. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Buprofezin; Extension of Tolerance for Emergency Exemptions [OPP–300937; FRL–6387–4] (RIN: 2070–AB70) received October 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5103. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Glufosinate Ammonium; Pesticide Tolerance [OPP–300945; FRL–6391–5] (RIN: 2070–AB78) received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5104. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule—Availability of Funds and Collection of Checks [Regulation CC; Docket No. R–1034] received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5105. A letter from the Legislative and Regulatory Activities Division, Department of the Treasury, Comptroller of the Currency, transmitting the Department's final rule—Investment Securities; Rules, Policies, and Procedures for Coporate Activities; and Bank Activities and Operations [Docket No. 99–14] (RIN: 1557–AB61) received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5106. A letter from the Under Secretary Food, Nutrition and Consumer Services, Department of Agriculture, transmitting the Department's final rule —Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Food and Nutrition Services and Administration Funding Formulas Rule (RIN: 0584–AC64) received October 27, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5107. A letter from the Assistant General Counsel for Regulations, Office of Student Financial Assistance, Department of Education, transmitting the Department's final rule—Federal Family Education Loan (FFEL) Program (RIN: 1845–AA06) received October 25, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5108. A letter from the Assistant General Counsel for Regulations, Office of Student Financial Assistance, Department of Education, transmitting the Department's final rule—Student Assistance General Provisions (RIN: 1845–AA04) received October 25, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5109. A letter from the Secretary of Education, transmitting the Federal Perkins Loan Program; to the Committee on Education and the Workforce.

5110. A letter from the Secretary of Education, transmitting the Secretary's Recognition of Accrediting Agencies; to the Committee on Education and the Workforce.

5111. A letter from the Secretary of Education, transmitting the Federal Family Education Loan (FFEL) Program; to the Committee on Education and the Workforce.

5112. A letter from the Secretary of Education, transmitting Student Assistance General Provisions; General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program; and Federal Pell Grant Program; to the Committee on Education and the Workforce.

5113. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District [CA 211–0189; FRL–6466–4] received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5114. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction Prior to May 30, 1991 and Have Not Been Reconstructed Since May 30, 1991 [AD–FRL–6469–8] (RIN: 2066–AISU) received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5115. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Persistent Bioaccumulative Toxic (PBT) Chemicals; Lowering of Reporting Thresholds for Certain PBT Chemicals; Addition of Certain PBT Chemicals; Community Right-to-Know Toxic Chemical Reporting [OPPTS–400132C; FRL–6389–11] (RIN: 2070–AD09) received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5116. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Delegation of the Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7): State of Ohio [FRL–6465–7] received October 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5117. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; Minnesota [MN–42–01–7267; FRL–6465.3] received October 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5118. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; Minnesota [MN58–01–7283; FRL–6465–4 and 81] received October 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5119. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Maintenance Plan Revisions; Ohio [OH 129–1a; FRL–6464–5] received October 26, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5120. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the Government of Canada (Transmittal No. DTC 152–99), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5121. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with the United Kingdom [Transmittal No. DTC 121–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5122. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Mexico [Transmittal No. DTC 104–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5123. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Turkey [Transmittal No. DTC 115–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5124. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Belgium [Transmittal No. DTC 119–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5125. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Turkey [Transmittal No. DTC 158–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5126. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Korea [Transmittal No. DTC 153–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5127. A letter from the Chief Financial Officer and Assistant Secretary for Administration, Department of Commerce, transmitting an inventory of functions performed by the Agency that are not inherently governmental after the inventory has been reviewed by the Office of Management and Budget; to the Committee on Government Reform.

5128. A letter from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting the Administration's final rule—Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the Commercial Red Snapper Component [I.D. 102099B] received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5129. A letter from the Office of Protected Resources, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Regulations Governing the Taking of Marine Mammals by Alaskan Natives; Marking and Reporting of Beluga Whales Harvested in Cook Inlet [Docket No. 990414095–9251–02; I.D. 033199B] (RIN: 0648–AM57) received October 29, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5130. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Duluth Ship Canal (Duluth-Superior Harbor), MN [CGD09–99–077] (RIN: 2115–AE47) received October 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5131. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting

the Department's final rule—Drawbridge Operation Regulations; Debbies Creek, New Jersey [CGD05–98–111] (RIN: 2115–AE47) received October 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5132. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Vessel Indentification System [CGD 89–050] (RIN: 2115–AD35) received October 28, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BURTON: Committee on Government Reform. H.R. 2904. A bill to amend the Ethics in Government Act of 1978 to reauthorize funding for the Office of Government Ethics' with amendments (Rept. 106–433, Pt. 1). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEACH. Committee of Conference. Conference report on S. 900. An act to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes (Rept. 106–434). Ordered to be printed.

Mr. YOUNG of Alaska. Committee on Resources. H.R. 3077. A bill to amend the Act that authorized construction of the San Luis Unit of the Central Valley Project, California, to facilitate water transfers in the Central Valley Project; with an amendment (Rept. 106–435). Referred to the Committee on the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 3075. A bill to amend title XVIII of the Social Security Act to make corrections and refinements in the Medicare Program as revised by the Balanced Budget Act of 1997; with an amendment (Rept. 106–436 Pt. 1). Ordered to be printed.

Ms. PRYCE of Ohio. Committee on Rules. House Resolution 352. Resolution providing for consideration of the bill (H.R. 2389) to restore stability and predictability to the annual payments made to States and counties containing National Forest System lands and public domain lands managed by the Bureau of Land Management for use by the counties for the benefit of public schools, roads, and for other purposes (Rept. 106–437). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 353. Resolution providing for consideration of motions to suspend the rules (Rept. 106–438). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 354. Resolution providing for consideration of the bill (H.R. 3194) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–439). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 355. Resolution waiving points of order against the conference report to accompany the bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes (Rept. 106–440). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

[The following action occurred on Oct. 29, 1999]

Pursuant to clause 5 of rule X, the Committee on Resources discharged. H.R. 2389 referred to the Committee of the Whole House on the State of the Union.

[The following action occurred on Nov. 1, 1999]

Pursuant to clause 5 of rule X, the Committee on the Judiciary discharged. H.R. 2904 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X, the following action was taken by the Speaker:

H.R. 2904. Referral to the Committee on the Judiciary extended for a period ending not later than November 2, 1999.

H.R. 3075. Referral to the Committee on Comemrce extended for a period ending not later than November 5, 1999.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. EVANS (for himself, Mr. FILNER, Mr. DOYLE, Mr. RODRIGUEZ, Mr. SHOWS, Ms. CARSON, Ms. BERKLEY, Mr. ABERCROMBIE, and Mr. HOLDEN):

H.R. 3193. A bill to amend title 38, United States Code, to reestablish the duty of the Department of Veterans Affairs to assist claimants for benefits in developing claims and to clarify the burden of proof for such claims; to the Committee on Veterans' Affairs.

By Mr. ISTOOK:

H.R. 3194. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes; to the Committee on Appropriations.

By Mr. KILDEE (for himself and Mr. CASTLE):

H.R. 3195. A bill to amend part F of title X of the Elementary and Secondary Education Act of 1965 to improve and refocus civic education, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CALLAHAN:

H.R. 3196. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes; to the Committee on Appropriations.

By Mr. DOGGETT (for himself, Mr. STARK, Mr. MATSUI, Mr. COYNE, Mr. LEVIN, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. BECERRA, Mrs. THURMAN, Mr. WAXMAN, Mr. BROWN of Ohio, Mr. ALLEN, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. BENTSEN, Mr. BERRY, Mr. BISHOP, Mrs. CAPPS, Mr. CAPUANO, Mr. CUMMINGS, Ms. DEGETTE, Mr. EDWARDS, Mr. EVANS, Mr. FILNER, Mr. FORD, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. HINCHEY, Ms. HOOLEY of Oregon, Ms. JACKSON-LEE of Texas, Ms. KILPATRICK, Mr. KIND, Mr. KUCINICH, Mr. LAMPSON, Mr. LANTOS, Mr. MARKEY, Mr. MCGOVERN, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MENENDEZ, Mr. GEORGE MILLER of California, Mr. OLVER, Ms. PELOSI, Ms. RIVERS, Mr. RODRIGUEZ, Mr. SANDERS, Mr. SANDLIN, Ms. SCHAKOWSKY, Mr. SERRANO, Ms. SLAUGHTER, Mr. STRICKLAND, Mr. TIERNEY, Mrs. JONES of Ohio, Mr. VENTO, and Ms. WOOLSEY):

H.R. 3197. A bill to amend the Internal Revenue Code of 1986 to prevent the abuse of the enhanced charitable deduction for contributions of drugs; to the Committee on Ways and Means.

By Mr. ENGLISH (for himself, Mr. VISCLOSKY, Mr. EVANS, Mr. NEY, and Mr. REGULA):

H.R. 3198. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Ways and Means.

By Mr. FILNER:

H.R. 3199. A bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the San Diego, California, metropolitan area; to the Committee on Veterans' Affairs.

By Mrs. FOWLER:

H.R. 3200. A bill to revise the boundaries of Fort Matanzas National Monument in the State of Florida to include additional land and to authorize the acquisition of the land, and for other purposes; to the Committee on Resources.

By Ms. NORTON:

H.R. 3201. A bill to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Carter G. Woodson Home in the District of Columbia as a National Historic Site, and for other purposes; to the Committee on Resources.

By Mr. SAXTON:

H.R. 3202. A bill to require door delivery of mail sent to persons residing in senior communities; to the Committee on Government Reform.

By Mr. STEARNS (for himself, Mr. OXLEY, Mr. FROST, Mr. SESSIONS, Mr. FOLEY, Mr. DOYLE, and Mr. MASCARA):

H.R. 3203. A bill to amend the Communications Act of 1934 to reduce restrictions on media ownership, and for other purposes; to the Committee on Commerce.

By Mrs. TAUSCHER (for herself, Mr. BRADY of Texas, Mr. BARCIA, Mr. BARRETT of Wisconsin, Mr. FOLEY, Mr. LAMPSON, Mr. GILMAN, Mr. FROST, Mr. SANDLIN, Mr. GUTKNECHT, Mr. ETHERIDGE, Mr. COOK, Mr. LARSON, Ms. LOFGREN, Ms. DELAURO, Mr. GREEN of Texas, Ms. HOOLEY of Oregon, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BONIOR, Ms. BERKLEY, Ms. BROWN of Florida, Mr. MARTINEZ, Ms. CARSON, Mrs. LOWEY, Mr. MCGOVERN, Ms. MILLENDER-MCDONALD, Ms. NORTON, Mr. STUPAK, Mr. THOMPSON of Mississippi, Mrs. JONES of Ohio, Mr. UNDERWOOD, Mr. WEINER, Ms. WOOLSEY, and Ms. SANCHEZ):

H.R. 3204. A bill to amend the Safe and Drug-Free Schools and Communities Act of 1994 to prevent the abuse and abduction of children; to the Committee on Education and the Workforce.

By Mr. SMITH of Michigan (for himself, Mr. BARTON of Texas, and Mr. ROHRABACHER):

H.J. Res. 74. A joint resolution proposing a spending limitation amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey (for himself, Ms. PELOSI, Mr. GILMAN, Mr. GEJDENSON, Mr. WOLF, Mr. GEPHARDT, Mr. PAYNE, Mr. ROHRABACHER, Mr. LANTOS, Mr. PORTER, Mr. BERMAN, Mr. TIAHRT, Mr. MALONEY of Connecticut, Mr. CAPUANO, Mr. PITTS, Mr. EVANS, Ms. KAPTUR, Mr. TIERNEY, Mr. BROWN of Ohio, and Mr. ACKERMAN):

H. Con. Res. 218. Concurrent resolution expressing the sense of the Congress that the Government of the People's Republic of China should stop its persecution of Falun Gong practitioners; to the Committee on International Relations.

By Mr. FRELINGHUYSEN:

H. Con. Res. 219. Concurrent resolution expressing the sense of Congress regarding the preservation of full and open competition for contracts for the transportation of United States military cargo between the United States and the Republic of Iceland; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TANCREDO (for himself, Mr. SMITH of New Jersey, and Mr. PITTS):

H. Res. 350. A resolution expressing the sense of the House of Representatives with respect to private companies involved in the trafficking of baby body parts for profit; to the Committee on Commerce.

By Mr. FROST:

H. Res. 351. A resolution designating minority membership on certain standing committees of the House; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Ms. SCHAKOWSKY introduced a bill (H.R. 3205) for the relief of Valentina Ovechkina; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 123: Mr. OXLEY.

H.R. 125: Ms. DELAURO and Mr. BROWN of Ohio.

H.R. 148: Mr. GALLEGLY.

H.R. 219: Mr. CALVERT.

H.R. 239: Mr. GILCHREST, Mr. PHELPS, Ms. DANNER, Mr. ETHERIDGE, Mr. COOK, Mr. LEWIS of California, Mr. SANDLIN, Mr. STUPAK, Mr. KLECZKA, Mr. GIBBONS, and Ms. DELAURO.

H.R. 443: Ms. ROYBAL-ALLARD, Mr. FORBES, Mrs. NAPOLITANO, and Mrs. CAPPS.

H.R. 460: Mr. UNDERWOOD.

H.R. 623: Mrs. FOWLER.

H.R. 721: Mr. ACKERMAN and Mr. WALSH.

H.R. 750: Mr. FILNER.

H.R. 827: Mr. UNDERWOOD, Ms. JACKSON-LEE of Texas, Mr. BAKER, and Mr. PICKERING.

H.R. 860: Mr. ROTHMAN.

H.R. 1020: Mr. DUNCAN, Mr. GEJDENSON, and Mr. PRICE of North Carolina.

H.R. 1040: Mr. BARR of Georgia.

H.R. 1044: Mr. SESSIONS, Mr. CHAMBLISS, Mr. RAMSTAD, and Mr. FOLEY.

H.R. 1046: Mr. TURNER.

H.R. 1080: Mr. WYNN and Mr. FILNER.

H.R. 1089: Mr. COX and Mr. BARRETT of Wisconsin.

H.R. 1111: Mr. UDALL of New Mexico.

H.R. 1130: Mr. FILNER.

H.R. 1178: Mr. BAKER.

H.R. 1221: Mr. WELDON of Pennsylvania.

H.R. 1237: Mr. CASTLE and Mr. ALLEN.

H.R. 1274: Mr. PAYNE.

H.R. 1280: Ms. JACKSON-LEE of Texas.

H.R. 1304: Mr. UDALL of Colorado.

H.R. 1346: Mrs. MINK of Hawaii.

H.R. 1349: Mr. SOUDER.

H.R. 1356: Mr. HILLIARD, Ms. LEE, Ms. MCKINNEY, Mr. BALLENGER, Mr. COOKSEY, and Mr. HOEFFEL.

H.R. 1358: Mr. SANDERS and Mr. DEFAZIO.

H.R. 1432: Mr. HOLDEN, Mrs. JONES of Ohio, Ms. ESHOO, and Mr. FROST.

H.R. 1505: Mr. UDALL of New Mexico and Mr. WEINER.

H.R. 1515: Mr. UDALL of New Mexico, Ms. PELOSI, and Mr. GONZALEZ.

H.R. 1621: Mr. INSLEE, Mrs. JONES of Ohio, Mr. LARSON, and Mr. MASCARA.

H.R. 1839: Mr. HORN and Mr. ROTHMAN.

H.R. 1843: Mr. FORD, Mr. PICKERING, and Mr. BAKER.

H.R. 1857: Mr. PAYNE.

H.R. 1885: Mr. LARSON, Mr. FILNER, and Mr. NADLER.

H.R. 1899: Mr. HOLDEN and Mr. PRICE of North Carolina.

H.R. 1926: Mr. STUPAK and Mr. BATEMAN.

H.R. 2053: Mr. ACKERMAN and Mr. PAYNE.

H.R. 2059: Mrs. THURMAN and Mr. GALLEGLY.

H.R. 2086: Mr. PICKERING and Mr. BILBRAY.

H.R. 2106: Mrs. LOWEY.

H.R. 2121: Mr. FRANK of Massachusetts.

H.R. 2200: Mrs. LOWEY.

H.R. 2308: Mr. MCINTYRE.

H.R. 2321: Mr. MATSUI and Mr. PAYNE.

H.R. 2333: Ms. LEE, Ms. VELAZQUEZ, Ms. PELOSI, Mrs. MINK of Hawaii, Mr. SANDERS, Ms. NORTON, Mr. UNDERWOOD, Mr. BLAGOJEVICH, and Mr. KLINK.

H.R. 2345: Mr. DEFAZIO and Ms. SCHAKOWSKY.

H.R. 2425: Mr. WELDON of Pennsylvania and Ms. DELAURO.

H.R. 2463: Mrs. THURMAN.

H.R. 2486: Mr. BARCIA, Ms. ROYBAL-ALLARD, and Ms. SCHAKOWSKY.

H.R. 2548: Mr. SMITH of Michigan, Mr. DEFAZIO, Mr. FROST, and Mr. BACHUS.

H.R. 2569: Ms. ESHOO.

H.R. 2655: Mr. OXLEY, Mr. CAMPBELL, and Mrs. MYRICK.

H.R. 2680: Mr. RANGEL.

H.R. 2691: Mr. OWENS.

H.R. 2720: Mr. GREENWOOD, Mrs. ROUKEMA, Mr. DEFAZIO, Mrs. THURMAN, and Mr. FRANKS of New Jersey.

H.R. 2738: Ms. KILPATRICK, Mr. EVANS, Mr. OLVER, Mr. BARRETT of Wisconsin, and Mrs. THURMAN.

H.R. 2749: Mr. PICKERING, Mr. GARY MILLER of California, and Mrs. FOWLER.

H.R. 2798: Mr. BILBRAY, Mr. CUNNINGHAM, Mr. CALVERT, Mr. LEWIS of California, Mr. MCKEON, Mr. RADANOVICH, Mr. HORN, Mrs. BONO, Mr. HUNTER, Mr. CONDIT, Mr. SHERMAN, Mr. MATSUI, Mr. FILNER, Ms. SANCHEZ, Mrs. NAPOLITANO, Ms. LOFGREN, Ms. ROYBAL-ALLARD, Mr. LANTOS, Mr. FARR of California, Ms. LEE, Ms. MILLENDER-MCDONALD, Mr. BECERRA, Mr. BERMAN, Mr. MARTINEZ, Ms. WATERS, Mr. WAXMAN, Mr. REYES, and Mr. MCDERMOTT.

H.R. 2824: Mr. OWENS.

H.R. 2840: Mr. SANDERS.

H.R. 2859: Mr. WYNN, Mr. LEWIS of Georgia, Mr. OLVER, Mr. BERMAN, Mr. CAPUANO, Mr. FILNER, and Mr. WAXMAN.

H.R. 2899: Mr. WAXMAN and Ms. SCHAKOWSKY.

H.R. 2925: Mrs. EMERSON and Mr. OWENS.

H.R. 2927: Mr. OWENS.

H.R. 2929: Mr. CONYERS, Ms. LEE, Mr. PRICE of North Carolina, Mr. HINCHEY, Mr. WAXMAN, Mr. RAHALL, Mrs. CAPPS, Mr. MARTINEZ, Mr. KUCINICH, Ms. SCHAKOWSKY, and Mr. SHERMAN.

H.R. 2939: Mr. PETERSON of Minnesota, Mr. MCGOVERN, and Mr. BROWN of Ohio.

H.R. 2947: Mrs. THURMAN.

H.R. 2953: Mr. CLYBURN and Mrs. THURMAN.

H.R. 2960: Mr. HAYWORTH.

H.R. 2965: Mr. CALLAHAN, Mr. FRELINGHUYSEN, Mr. BOEHLERT, and Mr. FLETCHER.

H.R. 2966: Mr. BOUCHER, Mr. COOKSEY, Mr. CRAMER, Mr. LUCAS of Oklahoma, Mr. SKELTON, and Mr. TERRY.

H.R. 2969: Mr. COOK, Ms. KILPATRICK, Mr. MARTINEZ, and Mr. HINCHEY.

H.R. 2985: Mr. PETERSON of Pennsylvania.

H.R. 3058: Ms. MILLENDER-MCDONALD and Mrs. MALONEY of New York.

H.R. 3062: Mr. KUCINICH.

H.R. 3075: Mr. GUTKNECHT, Mr. ISAKSON, Ms. GRANGER, and Mr. BATEMAN.

H.R. 3081: Mr. SHOWS.

H.R. 3082: Mr. GEKAS and Mr. NEAL of Massachusetts.

H.R. 3083: Mrs. JONES of Ohio, Mr. FRANK of Massachusetts, and Mr. PAYNE.

H.R. 3086: Mr. OWENS.

H.R. 3091: Mr. MCGOVERN, Mr. ABERCROMBIE, Mr. LAFALCE, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. TRAFICANT, Mr. MICA, Ms. KAPTUR, Mr. CUMMINGS, Mr. PASCRELL, Mr. MURTHA, Mr. FILNER, Mr. PAYNE, Mr. GILMAN, Mr. JACKSON of Illinois, and Mr. WALSH.

H.R. 3100: Mr. BASS, Mr. MCHUGH, and Mr. HILLIARD.

H.R. 3105: Mr. KUCINICH and Ms. SCHAKOWSKY

H.R. 3110: Mrs. JOHNSON of Connecticut.

H.R. 3144: Ms. SANCHEZ, Mr. BALDACCI, Mr. STARK, and Mr. MCINTYRE.

H.R. 3150: Mr. BONIOR and Mr. NADLER.

H.R. 3180: Mr. NEY.

H.J. Res. 48: Mr. BLILEY and Mr. HOEFFEL.

H.J. Res. 53: Mr. BALLENGER, Mr. EWING, and Mr. STEARNS.

H.J. Res. 70: Mr. HEFLEY and Mr. MALONEY of Connecticut.

H. Con. Res. 115: Mr. DOYLE.

H. Con. Res. 193: Mr. PETRI.

H. Con. Res. 199: Mr. ADERHOLT.

H. Res. 187: Mr. TIERNEY.

H. Res. 254: Mr. LAHOOD, Mrs. LOWEY, and Mr. PHELPS.

H. Res. 320: Mr. SHIMKUS, Mr. PHELPS, Mr. WELLER, Mr. HYDE, Mr. GUTIERREZ, Mrs. BIGGERT, and Mr. BLAGOJEVICH.

H. Res. 325: Mr. REYES and Mr. RUSH.

H. Res. 347: Ms. DELAURO, Mr. HOLDEN, Mrs. MCCARTHY of New York, Mrs. MORELLA, Mr. FRANK of Massachusetts, Mr. UNDERWOOD, Mr. THOMPSON of California, Mr. TIERNEY, and Mr. KLINK.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2915: Mr. LARGENT.

H. Res. 298: Mr. MANZULLO.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3081

OFFERED BY: MS. BERKLEY

AMENDMENT NO. 1: In section 274(n)(4)(A) of the Internal Revenue Code of 1986, as proposed to be added by section 203 of the bill,

strike ''55 percent'' and insert ''75 percent'' and strike ''60 percent'' and insert ''100 percent''.

H.R. 3081

OFFERED BY: MR. TERRY

AMENDMENT NO. 2: Strike subtitle A of title V and insert the following new subtitle (and conform the table of contents accordingly):

Subtitle A—Repeal of Estate, Gift, and Generation-Skipping Taxes; Repeal of Step Up in Basis At Death

SEC. 501. REPEAL OF ESTATE, GIFT, AND GENERATION-SKIPPING TAXES.

(a) IN GENERAL.—Subtitle B is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply to the estates of decedents dying, and gifts and generation-skipping transfers made, after December 31, 2008.

SEC. 502. TERMINATION OF STEP UP IN BASIS AT DEATH.

(a) TERMINATION OF APPLICATION OF SECTION 1014.—Section 1014 (relating to basis of property acquired from a decedent) is amended by adding at the end the following:

''(f) TERMINATION.—In the case of a decedent dying after December 31, 2008, this section shall not apply to property for which basis is provided by section 1022.''.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking ''and'' at the end of paragraph (26), by striking the period at the end of paragraph (27) and inserting ''; and'', and by adding at the end the following:

''(28) to the extent provided in section 1022 (relating to basis for certain property acquired from a decedent dying after December 31, 2008).''.

SEC. 503. CARRYOVER BASIS AT DEATH.

(a) GENERAL RULE.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1021 the following:

''SEC. 1022. CARRYOVER BASIS FOR CERTAIN PROPERTY ACQUIRED FROM A DECEDENT DYING AFTER DECEMBER 31, 2008.

''(a) CARRYOVER BASIS.—Except as otherwise provided in this section, the basis of carryover basis property in the hands of a person acquiring such property from a decedent shall be determined under section 1015.

''(b) CARRYOVER BASIS PROPERTY DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'carryover basis property' means any property—

''(A) which is acquired from or passed from a decedent who died after December 31, 2008, and

''(B) which is not excluded pursuant to paragraph (2).

The property taken into account under subparagraph (A) shall be determined under section 1014(b) without regard to subparagraph (A) of the last sentence of paragraph (9) thereof.

''(2) CERTAIN PROPERTY NOT CARRYOVER BASIS PROPERTY.—The term 'carryover basis property' does not include—

''(A) any item of gross income in respect of a decedent described in section 691,

''(B) property which was acquired from the decedent by the surviving spouse of the decedent but only if the value of such property would have been deductible from the value of the taxable estate of the decedent under section 2056, as in effect on the day before the date of the enactment of the Wage and Employment Growth Act of 1999, and

''(C) any includible property of the decedent if the aggregate adjusted fair market value of such property does not exceed $2,000,000.

For purposes of this subsection, the term 'adjusted fair market value' means, with respect to any property, fair market value reduced by any indebtedness secured by such property.

''(3) LIMITATION ON EXCEPTION FOR PROPERTY ACQUIRED BY SURVIVING SPOUSE.—The adjusted fair market value of property which is not carryover basis property by reason of paragraph (2)(B) shall not exceed $3,000,000. The executor shall allocate the limitation under the preceding sentence among such property.

''(4) PHASEIN OF CARRYOVER BASIS IF PROPERTY EXCEEDS $1,300,000.—

''(A) IN GENERAL.—If the aggregate adjusted fair market value of the includible property of the decedent exceeds $1,300,000, but does not exceed $2,000,000, the amount of the increase in the basis of includible property which would (but for this paragraph) result under section 1014 shall be reduced by the amount which bears the same ratio to such increase as such excess bears to $700,000.

''(B) ALLOCATION OF REDUCTION.—The reduction under subparagraph (A) shall be allocated among only the excepted includible property having net appreciation and shall be allocated in proportion to the respective amounts of such net appreciation. For purposes of the preceding sentence, the term 'net appreciation' means the excess of the adjusted fair market value over the decedent's adjusted basis immediately before such decedent's death.

''(5) INCLUDIBLE PROPERTY.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'includible property' means property which would be included in the gross estate of the decedent under any of the following provisions as in effect on the day before the date of the enactment of the Wage and Employment Growth Act of 1999:

''(i) Section 2033.

''(ii) Section 2038.

''(iii) Section 2040.

''(iv) Section 2041.

''(v) Section 2042(1).

''(B) EXCLUSION OF PROPERTY ACQUIRED BY SPOUSE.—Such term shall not include property which is not carryover basis property by reason of paragraph (2)(B).

''(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.''.

(b) MISCELLANEOUS AMENDMENTS RELATED TO CARRYOVER BASIS.—

(1) CAPITAL GAIN TREATMENT FOR INHERITED ART WORK OR SIMILAR PROPERTY.—

(A) IN GENERAL.—Subparagraph (C) of section 1221(3) (defining capital asset) is amended by inserting ''(other than by reason of section 1022)'' after ''is determined''.

(B) COORDINATION WITH SECTION 170.—Paragraph (1) of section 170(e) (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end the following: ''For purposes of this paragraph, the determination of whether property is a capital asset shall be made without regard to the exception contained in section 1221(3)(C) for basis determined under section 1022.''.

(2) DEFINITION OF EXECUTOR.—Section 7701(a) (relating to definitions) is amended by adding at the end the following:

''(47) EXECUTOR.—The term 'executor' means the executor or administrator of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within the United States, then any person in actual or constructive possession of any property of the decedent.''.

(3) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by adding at the end the following new item:

''Sec. 1022. Carryover basis for certain property acquired from a decedent dying after December 31, 2008.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 2008.

SEC. 504. REDUCTIONS OF ESTATE AND GIFT TAX RATES PRIOR TO REPEAL.

(a) MAXIMUM RATE OF TAX REDUCED TO 50 PERCENT.—

(1) IN GENERAL.—The table contained in section 2001(c)(1) is amended by striking the two highest brackets and inserting the following:

''Over $2,500,000 ..... $1,025,800, plus 50% of the excess over $2,500,000.''.

(2) PHASE-IN OF REDUCED RATE.—Subsection (c) of section 2001 is amended by adding at the end the following new paragraph:

''(3) PHASE-IN OF REDUCED RATE.—In the case of decedents dying, and gifts made, during 2001, the last item in the table contained in paragraph (1) shall be applied by substituting '53%' for '50%'.''.

(b) REPEAL OF PHASEOUT OF GRADUATED RATES.—Subsection (c) of section 2001 is amended by striking paragraph (2) and redesignating paragraph (3), as added by subsection (a), as paragraph (2).

(c) ADDITIONAL REDUCTIONS OF RATES OF TAX.—Subsection (c) of section 2001, as so amended, is amended by adding at the end the following new paragraph:

''(3) PHASEDOWN OF TAX.—In the case of estates of decedents dying, and gifts made, during any calendar year after 2002 and before 2009—

''(A) IN GENERAL.—Except as provided in subparagraph (C), the tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

''(i) each of the rates of tax shall be reduced by the number of percentage points determined under subparagraph (B), and

''(ii) the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under clause (i).

''(B) PERCENTAGE POINTS OF REDUCTION.—

''For calendar year:	The number of percentage points is:
2003	1.0
2004	2.0
2005	3.0
2006	4.0
2007	5.5
2008	7.5.

''(C) COORDINATION WITH INCOME TAX RATES.—The reductions under subparagraph (A)—

''(i) shall not reduce any rate under paragraph (1) below the lowest rate in section 1(c), and

''(ii) shall not reduce the highest rate under paragraph (1) below the highest rate in section 1(c).

''(D) COORDINATION WITH CREDIT FOR STATE DEATH TAXES.—Rules similar to the rules of subparagraph (A) shall apply to the table contained in section 2011(b) except that the Secretary shall prescribe percentage point reductions which maintain the proportionate relationship (as in effect before any reduction under this paragraph) between the credit under section 2011 and the tax rates under subsection (c).''.

(d) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to estates of decedents dying, and gifts made, after December 31, 2000.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to estates of decedents dying, and gifts made, after December 31, 2002.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, TUESDAY, NOVEMBER 2, 1999 No. 152

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, You have called the men and women of this Senate to glorify You by being servant-leaders. The calling is shared by the officers of the Senate, Senators' staffs, and all who enable the work done in this Chamber. Keep us focused on the liberating truth that we are here to serve by serving our Nation. Our sole purpose is to accept Your absolute Lordship over our own lives and then give ourselves totally to the work this day.

Give us the enthusiasm that comes from knowing the high calling of serving in government. Grant us the holy esteem of knowing that You seek to accomplish Your plan for America through the legislation of this Senate. Free us from secondary, self-serving goals. Help us to humble ourselves and ask how we may serve today. We know that happiness comes not from having things or getting recognition but from serving in the great cause of implementing Your righteousness, justice, and mercy for every person and in every circumstance of this Nation. We take delight in the ultimate paradox of life: The more we give ourselves away, the more we can receive of Your life. In our Lord's name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE DEWINE, a Senator from the State of Ohio, 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. DEWINE). The majority leader is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, the Senate will resume consideration momentarily of the conference report to accompany the District of Columbia, Labor-HHS, and Education bill. By previous consent, at 10 a.m., the Senate will proceed to a vote on the conference report. That vote will be followed up by two cloture votes in relation to the Caribbean/African trade bill. Senators can expect then at least two stacked votes to begin at approximately 10 a.m. Cloture is expected to be invoked on the trade bill, and therefore the Senate will begin 30 hours of postcloture debate during today's session of the Senate. It is hoped this bill can be completed in the next day or so, certainly before the end of the week, because we do have some other very important issues we want to complete this week. We do want to take up the financial services modernization conference report, and we want to move to the bankruptcy bill that Senator DASCHLE and I have been trying to get an agreement on how to bring to the floor. We have had objection so far, but we are going to persist in getting this to the floor in a way that would be fair to both sides.

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent that all second-degree amendments must be filed at the desk by 10 a.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I also ask unanimous consent that all amendments to the pending trade bill must be relevant to the substitute or the issue of trade and all other provisions of rule XXII be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. We will work to get a time for those amendments to be filed because we do need to get a look at those amendments, even though they are relevant, just so they can be considered by the managers of the legislation.

Mr. President, I ask unanimous consent that all first-degree amendments be filed by 2 p.m. today, notwithstanding rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask unanimous consent that the time I am about to use come out of my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

WALTER PAYTON

Mr. LOTT. Mr. President, Walter Payton was the pride of Columbia, MS. He died all too early this past Monday at the age of 45 years—too young for a person of such integrity, ability, and generosity.

The Clarion Ledger newspaper of my home State this morning wrote a magnificent article about him. It said Walter Payton amazed his Mississippi teammates with his kindness almost as often as he dazzled them with his ability. They tell of a man who studied audiology in college after playing high school football with a deaf friend. That told a lot about the early life of this outstanding young man, and it is the kind of life he lived until his final day this past Monday.

Surprisingly, the man who would become a great football player did not even try out for football until his junior year in high school, choosing instead to play drums in the high school band. But he learned the game of football as fast as he could run, and long

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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before the Nation had heard of the Chicago Bear named ''Sweetness,'' Mississippians were cheering a Jefferson High superhero they called ''Spiderman'' and a Jackson State Tiger known as Walter.

His 3,563 yards rushing at Jackson State University was one of nine school records he set, and he scored a college career total of 66 touchdowns. At Jackson State, in 1973, he led the Nation in scoring with 160 points, and his 464 career points set an NCAA record. But Jackson State was a Division 1–AA school, and Walter did not get the same attention as players from some of the bigger, well-known colleges. Still, the Bears knew a caliber player when they saw one, and they knew about some of the other famous Mississippians who had preceded him, so they drafted him fourth in the overall draft in 1975.

In his first NFL game in 1975, he rushed eight times for a total of zero yards. But that did not tell the story of what was to come. The Bears did not give up on him, and Walter Payton didn't give up on himself. He worked as hard in Chicago as he had in Mississippi. By the end of his rookie year, he had started seven games and rushed for 679 yards and seven touchdowns. The next year he had the first of what would be 10 1,000-yard seasons, rushing for 1,390 yards and 13 touchdowns.

NFL coaches termed him the ''complete football player.'' Just last night, I saw Mike Ditka saying he was the best, most complete football player he had ever seen. He bested Jim Brown's longstanding rushing record of 12,312 yards in 1984.

But he also was more than just a football player. He worked to help mankind. He created the Halas/Payton Foundation to assist Chicago inner-city youth in completing their education. He believed in nurturing young people through education and inspiration, and he knew that the rewards of sports came in the challenges he set for himself, what he learned about himself, and what he accomplished as part of a team.

Walter Payton's light shown brighter earlier than many people his age. That is why his passing on Monday was even more difficult to take. At his induction in the NFL Football Hall of Fame in July 1993, he asked his son Jarrett to be the first son to present his father for induction into the Football Hall of Fame. His son said:

''Not only is he a great athlete, he's a role model—he's my role model.''

Drummer, NCAA champion, college Hall of Famer, Pro Football All Star, NFL Hall of Famer, ''Sweetness.''

Role model to his son and millions of other Jarretts, that is the title Walter Payton would most cherish as his legacy.

Mr. COCHRAN. Mr. President, will the Senator yield a moment to me?

Mr. LOTT. I will be delighted to yield to my colleague from Mississippi.

Mr. COCHRAN. Mr. President, I join my distinguished colleague in advising the Senate that today our State of Mississippi, mourns with a heavy heart, the passing of Walter Payton, who died yesterday.

His accomplishments on the football field at Jackson State University and at Soldiers Field in Chicago as a member of the Chicago Bears are well known to all of us. He was the greatest running back in the history of football.

He reflected a great deal of credit on our State not only because he was a great football player but because of his personality, his generosity, and his kindness to his family and friends. I know he would often fly members of his family and friends—including a member of my staff, Barbara Rooks, who is a close friend of the Payton family—to Chicago for football games. He was devoted to his mother, Mrs. Aylene Payton and his sister Pamela and he was very close to his brother Eddie, who was a great football payer too as a well as a professional golfer. Eddie Payton also coached the Jackson State University golf team to the national championship.

The family is well respected in so many ways. I could go on for a long time and tell you more about his mother and what a dear lady she is and the exemplary community spirit of all the members of Walter Payton's family.

I extend to his wife Connie and their children Jarrett and Brittney my deepest sympathies. The articles in the New York Times today describe well his remarkable career, and they include accolades from fellow players, coaches, and friends. I ask unanimous consent that these articles on the life and career of Walter Payton along with his biography as an Enshrinee of the Pro Football Hall of Fame be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Clarion Ledger, Nov. 2, 1999]

FROM COLLEGE IN MISSISSIPPI TO CHAMPION

(By William C. Rhoden)

The news that Walter Payton died yesterday at his home in a suburb of Chicago came not so much as a shock but as a sorrowful, piercing spike. We were prepared last February by the shock of seeing the once robust Payton looking gaunt and frail as he announced that he suffered from a rare liver disease. Now we mourn a family's loss of a father and husband, and the industry's loss of a great athlete. I mourn the loss of a shared past, life petals that peel away each time someone contemporary dies.

I was not close to Walter Payton, but rather attached to him.

We first met 28 years ago this month, on Nov. 13, 1971. This was the sort of one-on-one introduction that defensive backs dread and outstanding running backs love. We met at the 10-yard line in Mississippi Memorial Stadium.

This was before Payton became Sweetness; before he became a Chicago Bear; before we were paid for plying our particular crafts. We met in the rarefied atmosphere of black college football. He was a freshman at Jackson State University in Mississippi; I was a senior at Morgan State in Baltimore. This was an inter-sectional game between once-beaten, once-tied opponents. We had beaten Jackson State a year earlier at R.F.K. Stadium in Washington, and now it was our turn to go to the Deep South, deeper than I'd ever been. I was intrigued by Mississippi, the state so tied to civil rights history. All our coach kept talking about was that these Southern boys were still fighting the Civil War: the South thought it was better than the North, he said, and when it came to football, felt it was heartier, better and tougher.

Jackson State had a great football legacy: Willie Richardson, Gloster Richardson, Verlon Biggs, Harold Jackson, Richard Caster, Lem Barney. This particular year it had Jerome Barkum, later a wide receiver with the Jets, Robert Brazile, later a linebacker with the Oilers, and Eddie Payton, Walter's older brother, who became a great N.F.L. punt returner and then a professional golfer. Walter began the year unknown, playing behind his brother. By November he was still playing behind his brother but was Jackson State's secret weapon.

My recollection of the game is reduced to one poignant frame—that first meeting at the 10-yard line. A sweep with Payton slicing past the line, over the linebackers and finally into the secondary. There was Payton, there was me; I hit him and felt solid contact, then felt Payton bounce back to the outside for a touchdown. What I remember thinking at the moment was that this guy had great balance, gyroscopic balance. He was nearly horizontal, legs still churning. Payton was rushing toward the National Football League; I was headed toward journalism, not doing such a good job of tackling but recording the moment.

Years later in Chicago I teased him about Morgan State's victory in 1970. Payton reminded me that we had won that game when he was still in high school.

Payton represents so much to so many. He carried the banner of black college football to an unprecedented level. To one extent or another we all carried a burden of proof. One success reflected well on the group. Individual success was group success, even if the player went to a different institution. Such as when Grambling sent eight players to the N.F.L. one season, or now when Mike Strahan, who played at Texas Southern, runs in the winning touchdown. Payton was an object of such pride. His success felt good and warm.

He held so many N.F.L. records. He set the career record for rushing yards, 16,726; for career attempts, 3,838; for rushing yards in a game, 275; for seasons with 1,000 or more yards, 10. He broke Jim Brown's N.F.L. career rushing mark, 12,312 yards, in Chicago on Oct. 7, 1984, the same day he broke Brown's mark of 58 100-yard rushing games.

A large part of Payton's legacy is made up of numbers. Yesterday, Robert Hughes, the Jackson State head coach, was an assistant coach in 1971, said that what Payton meant went beyond the numbers. ''What's most memorable to me is when he started getting on a roll and started after Jim Brown's record,'' Hughes said. ''Brown was the greatest running back of all time. He didn't come from a predominantly black school; he's from Syracuse. When Walter came in from a little school in Mississippi to top all that, that's what made it great.''

Walter Payton, with the aggressive, elusive style that was formed at Jackson State. The N.F.L.'s career rushing leader. The runner who led Chicago to its only Super Bowl victory. Dead so young, at 45.

[From the New York Times, Nov. 2, 1999]

FOOTBALL REMEMBERS PAYTON, THE ULTIMATE PLAYER

(By Mike Freeman)

Late yesterday afternoon each National Football League team received an e-mail

message from the Chicago Bears. Many executives knew what it said before they read it: Walter Payton, one of the best ever to play running back, had died.

For the past several days it has been rumored that Payton had taken a turn for the worse, so the league was braced for the news. Still, the announcement that Payton had succumbed to bile-duct cancer at 45 rocked and deeply saddened the world of professional football.

''His attitude for life, you wanted to be around him,'' said Mike Singletary, a close friend who played with Payton from 1981 to 1987 on the Bears. Singletary read Scripture at Payton's side on the morning of his death.

''He was the kind of individual if you were down he would not let you stay down,'' Singletary said.

Commissioner Paul Tagliabue said the N.F.L. family was devastated by the loss of Payton. Tagliabue called him ''one of the greatest players in the history of the sport.''

''The tremendous grace and dignity he displayed in his final months reminded us again why 'Sweetness' was the perfect nickname for Watler Payton,'' he said in a statement.

In his 13 seasons with Chicago, Payton rushed for 16,726 yards on 3,838 carries, still both N.F.L. records. One of Payton's most impressive feats was that he played in 189 of 190 games from 1975, his first season, until his retirement in 1987. For someone with Payton's style to participate and dominate in that many games—he enjoyed plowing into defenders and rarely ran out of bounds to avoid a tackle—is remarkable.

''He is the best football player I've ever seen,'' said Saints Coach Mike Ditka, who coached Payton for six seasons with Chicago.

Ditka added: ''At all positions, he's the best I've ever seen. There are better runners than Walter, but he's the best football player I ever saw. To me, that's the ultimate compliment.''

What always amazed Payton's opponents was his combination of grace and power. Payton once ran over half dozen players from the Kansas City Chiefs, and on more than one occasion he sprinted by speedy defensive backs.

It did not take long for the N.F.L. to see that Payton was special. In 1977, his third season, Payton, standing 5 feet 10½ inches and weighing 204 pounds, was voted the league's most valuable player after one of the best rushing seasons in league history. He ran for 1,852 yards and 14 touchdowns. His 5.5 yard a carry that season was a career best and against Minnesota that season he ran for 275 yards, a single-game record that still stands.

''I remember always watching him and thinking, 'How did he just make that run?' '' Giants General Manager Ernie Accorsi said. ''He was just a great player.

Accorsi echoed the sentiments of others that Payton may not have had the natural gift of running back Barry Sanders or the athleticism of Jim Brown, but that he made the most of what he had.

''I think Jim Brown is in a class by himself,'' Accorsi said. ''And then there are other great players right behind him like Walter Payton.''

Payton was known as much for his kindness off the field as his prowess on it. He was involved with a number of charities during and after his N.F.L. career, and although he valued his privacy he was known for his kindness to people in the league whom he did not know.

Accorsi saw Payton at the 1976 Pro Bowl, and even though it was one of the first times the two had met, Payton told Accorsi, ''I hope God blesses you.''

''When some guys say stuff like that, you wonder if it is phony,'' Accorsi said, ''but not with him. You could tell he was very genuine.''

Bears fans in Chicago felt the same way, which is why reaction to his death was swift and universal.

''He to me is ranked with Joe DiMaggio in baseball—he was the epitome of class,'' said Hank Oettinger, a native of Chicago who was watching coverage of Payton's death at a bar on the city's North Side. ''The man was such a gentleman, and he would show it on the football field.''

Several fans broke down crying yesterday as they called into Chicago television sports talk show and told of their thoughts on Payton.

Asked what made Payton special, Ditka said: ''It would have to be being Walter Payton. He was so good for the team. He was the biggest practical joker and he kept everyone loose. And he led by example on the field. He was the complete player. He did everything. He was the greatest runner, but he was also probably the best looking back you ever saw.''

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank my colleagues from the State of Mississippi who are justifiably proud of Walter Payton. His home State of Mississippi can look to Walter Payton with great pride. There is a great deal of sadness in my home State of Illinois, particularly in the city of Chicago, with the passing of Walter Payton at the age of 45.

Later today, I will enter into the RECORD a statement of tribute to Mr. Payton, but I did not want to miss this opportunity this morning to mention several things about what Walter Payton meant to Chicago and Illinois.

He was more than a Hall of Fame football player. He ran for a record 16,726 yards in a 13-year career, one of those years shortened by a strike, and yet he established a record which probably will be difficult to challenge or surpass at any time in the near future.

The one thing that was most amazing about Walter Payton was not the fact he was such a great rusher, with his hand on the football and making moves which no one could understand how he pulled off, but after being tackled and down on the ground, hit as hard as could be, he would reach over and pull up the tackler and help him back on his feet.

He was always a sportsman, always a gentleman, always someone you could admire, not just for athletic prowess but for the fact he was a good human being.

I had the good fortune this last Fourth of July to meet his wife and son. They are equally fine people. His son, late in his high school career, in his junior year, decided to try out for football. The apple does not fall far from the tree; he became a standout at Saint Viator in the Chicago suburb of Arlington Heights and now is playing at the University of Miami. I am sure he will have a good career of his own.

With the passing of a man such as Walter Payton, we have lost a great model in football and in life—the way he conducted himself as one of the most famous football players of all time.

The last point I will make is, toward the end of his life when announcing he faced this fatal illness, he made a plea across America to take organ donation seriously. He needed a liver transplant at one point in his recuperation. It could have made a difference. It did not happen.

I do not know the medical details as to his passing, but Walter Payton's message in his final months is one we should take to heart as we remember him, not just from those fuzzy clips of his NFL career but because he reminded us, even as he was facing his last great game in life, that each and every one of us has the opportunity to pass the ball to someone who can carry it forward in organ donation, and the Nation's commitment to that cause would be a great tribute to him.

I yield the floor.

THE DEATH OF WALTER PAYTON

Mr. FITZGERALD. Mr. President, I rise today to express my sadness at the news of the death of one of football's greatest stars ever, Chicago's own Walter Payton.

Walter Payton was a hero, a leader, and a role model both on and off the field. For 13 years, he thrilled Chicago Bears' fans as the NFL's all-time leading rusher—perhaps one of the greatest running backs ever to play the game of football. After retiring from professional football in 1987, Payton continued to touch the lives of Chicagoans as an entrepreneur and a community leader.

Walter Payton's historic career began at Jackson State University, where he set a college football record for points scored. The first choice in the 1975 NFL draft, Payton—or ''Sweetness'' as he was known to Chicago Bears fans—became the NFL's all-time leader in running and in combined net yards and scored 110 touchdowns during his career with the Bears. He made the Pro Bowl nine times and was named the league's Most Valuable Player twice, in 1977 and 1985. In 1977, Payton rushed for a career-high 1,852 yards and carried the Bears to the playoffs for the first time since 1963. He broke Jim Brown's long-standing record in 1984 to become the league's all-time leading rusher, and finished his career with a record 16,726 total rushing yards. In 1985–86, Walter Payton led the Bears to an unforgettable 15–1 season and Super Bowl victory—the first and only Super Bowl win in Bears' history. Walter Payton was inducted into the Pro Football Hall of Fame in 1993, and was selected this year as the Greatest All-Time NFL Player by more than 200 players from the NFL Draft Class of 1999.

More important, Walter Payton matched his accomplishments on the football field with his selfless actions off the field on behalf of those in need. He earned a degree in special education from Jackson State University and worked throughout his adult life to improve the lives of children. In 1988, he

established the Halas/Payton Foundation to help educate Chicago's youth.

Walter Payton was truly an American hero in every sense of the term. He died tragically at age 45, but his legacy will live in our hearts and minds forever. Today, Mr. President, Illinois mourns. Sweetness, we will miss you.

Mr. DURBIN. Mr. President, I rise today to pay tribute to perhaps the best running back who ever carried a football, Walter Payton, who died yesterday at the age of 45. In Carl Sandburg's City of the Big Shoulders, ''Sweetness,'' as Payton was nicknamed, managed to carry the football hopes of an entire city on his shoulders for 13 magnificent years.

From the law firms on LaSalle to the meat packing plants on Fulton, Monday mornings in Chicago were always filled with tales of Payton's exploits on the field from the previous day. We marveled at his ability and reveled in the glory he brought to Chicago and Da Bears. In a life cut short by a rare disease, he blessed Chicago with several lifetimes of charisma, courage, and talent.

Who could forget the many times Payton lined up in the red zone and soared above opposing defenders for a Bears touchdown? Or the frequency with which his 5–10, 204-pound frame bowled over 250-pound linebackers en route to another 100-yard-plus rushing game? His relentless pursuit of that extra yard and the passion with which he sought it made his nickname, Sweetness, all the more ironic. It would take the rarest of diseases, barely pronounceable and unfortunately insurmountable, to finally bring Sweetness down.

It was that passion that inspired Payton's first position coach, Fred O'Connor, to declare: ''God must have taken a chisel and said, 'I'm going to make me a halfback.'''' Coach Ditka called Payton simply ''the greatest football player I've ever seen.'' Payton's eight National Football League (NFL) records, most of which still stand today, merely underscore his peerless performance on the field and his extraordinary life away from it. The man who wore number 34 distinguished himself as the greatest performer in the 80-year history of a team that boasts more Hall of Famers than any other team in League history.

He played hurt many times throughout his career, and on one notable occasion, when he should have been hospitalized with a 102 degree fever, he played football. On that day, November 20, 1977, Payton turned in the greatest rushing performance in NFL history, rushing for a league record 275 yards en route to victory against the Minnesota Vikings.

Self-assured but never cocky, Sweetness had no interest in indulging the media by uttering the self-aggrandizing sound bites that are all too common among today's athletes. Instead, he would praise the blocking efforts of fullback Matt Suhey or his offensive linemen, all of whom were inextricably linked to the surfeit of records he amassed. He play the game with a rare humility—refusing to call attention to himself—always recognizing the individuals who paved the way for his achievements.

He once refused to be interviewed by former Ms. America Phyllis George unless his entire corps of linemen were included. Following his first 1,000 yard rushing season, Payton bought his offensive linemen engraved watches. The engraving, however, made no mention of the 1,390 yards he finished with that year, but instead noted the score of the game in which he reached 1,000 yards, underscoring the essential contributions that his offensive linemen made in enabling him to achieve this feat.

And how many times did we see Walter Payton dance down the field, a limp leg, a quick cut, a break-away. He could find daylight in a crowded elevator. And when a tackler finally brought him down, Walter Payton would jump to his feet and reach down to help his tackler up. That's the kind of football player he was. That's the kind of person he was.

Payton lightened the atmosphere at Hallas Hall with an often outlandish sense of humor, even during the years when the Bears received boos from the fans and scathing criticism from the press. Rookies in training camp were often greeted by firecrackers in their locker room and unsuspecting teammates often faced a series of pranks when they turned their backs on Payton. Just last week, as Payton was clinging to life, he sent Suhey on a trip to Hall of Famer Mike Singletary's house, but not before he gave Suhey a series of incorrect addresses and directed Suhey to hide a hamburger and a malt in Singletary's garage.

While Payton lived an unparalleled life on the football field, he also lived a very full life off the field. He was a brilliant businessman, but never too busy to devote countless hours to charitable deeds, most of which were unsolicited and voluntary. Sweetness shared with us a sense of humanity that will endure as long as his records. I had the good fortune on July 4th to meet his wife and children, who are equally fine people. The apple didn't fall too far from the tree. Jarrett Payton, like his father, decided to try out for football in his Junior Year. Jarrett was a standout at St. Viator High School in Arlington Heights, a Chicago suburb, and he is now playing football at the University of Miami. It looks as if he may have quite a career of his own.

In his last year, Walter Payton helped illuminate the plight of individuals who are afflicted with diseases that require organ transplants. Patients with the rare liver disease that Payton contracted, primary sclerosing cholangitis (PSC), have a 90% chance of surviving more than one year if they receive a liver transplant. Unfortunately, the need for donations greatly exceeds the demand. The longer that patients wait on the organ donation list, the more likely it is that their health will deteriorate. In Payton's case, the risk of deadly complications, which included bile duct cancer, grew too quickly. Payton likely would have had to wait years for his life-saving liver. This was time he did not have before cancer took his life yesterday. A day when everyone who needs a life-saving organ can be treated with one cannot come soon enough.

More than 66,000 men, women, and children are currently awaiting the chance to prolong their lives by finding a matching donor. Minorities, who comprise approximately 25% of the population, represent over 40% of this organ transplant waiting list. Because of these alarming statistics, thirteen people die each day while waiting for a donated liver, heart, kidney, or other organ. Half of these deaths are people of color. The untimely death of Payton is a wake-up call for each of us to become organ donors and discuss our intentions with our families so that we do not lose another hero, or a son, a daughter, a mother or a father to a disease that can be overcome with an organ transplant.

Mr. President, today is a sad day in Chicago and in our nation. We have lost a father, a husband, a friend, and a role model all at once. While we are overcome with grief, we are also reminded of the blessings that Payton bestowed upon his wife, Corrine, his children, Jarrett and Brittney, and the city of Chicago during his brief time with us.

So thanks for the memories, Sweetness. Soldier Field will never be the same.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report.

The legislative clerk read as follows:

Conference report to accompany H.R. 3064 making appropriations for the Government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, what is the time situation with regard to the conference report?

The PRESIDING OFFICER. The Senator from Alaska has 5 minutes.

Mr. STEVENS. Is there a set time to vote, Mr. President?

The PRESIDING OFFICER. We are to vote in 30 minutes. There are six Senators who have 5 minutes apiece.

Mr. STEVENS. Mr. President, we will hear from the managers of the bill, I am certain. There are two sets of managers, as a matter of fact. This is a bill that combines the District of Columbia

appropriations bill and the Labor-Health and Human Services bill. I am here today as chairman to urge Members of the Senate to vote favorably for this bill and to send it to the President.

The big bill in this conference report before us, the Labor-Health and Human Services bill, is the 13th appropriations bill. With the adoption of this conference report, we will have sent all 13 bills to the President. If one considers the timeframe of this Congress, with the time we spent on the impeachment process and then the delays that came our way because of the various emergencies that have taken our attention, particularly in the appropriations process this year—Kosovo, the devastating hurricanes, and the disaster in the farm area—one will understand why we are this late in the day considering the 13th bill.

This bill has had some problems because of our overall budget control mechanisms. We have been limited in terms of the money available. We have stayed within those limits. We have forward funded some of the items so they will be charged against future years. But those are items that primarily would be spent in those years.

We have had a real commitment on a bipartisan basis not to invade the Social Security surplus. As we look into the future with the retirement of an enormous generation, the baby boom generation, there is no question that Social Security surplus must be sound, and we are doing our best to make sure that is the case.

We have had a series of issues before us. We have had some disagreements with the President. In this bill, we try to work out those differences. We have provided moneys for our children, for the Boys and Girls Clubs; we have provided for law enforcement officers to have safe, bulletproof vests. With so many things going on in terms of children and education, we tried to meet the President more than halfway on his requests for education.

The bill would probably be signed but for the differences between the administration and the Congress over how to handle the funding. We have included, as a matter of fact, against my best wishes, an across-the-board cut. That is primarily because only the administration can identify some of the areas we can reduce safely without harming the programs, and I am confident when we come to what we call the final period to devise a bill, we will work out with the administration some offsets that will take care of the bill. I am hopeful we will have no across-the-board cut, but if it comes, it will not be as large as the one in this bill right now.

I am urging Members of the Senate to vote for this bill. I do believe we can be assured, and I was assured yesterday, that the bill will be vetoed. There is no question about that. But also, we had probably the most productive and positive meeting with the administration yesterday. I expect to be starting those discussions in our office in the Capitol with representatives of the President within just a few moments, and we are very hopeful we can come together and bring to the Senate and to the Congress a solution to the differences between us and get this final series of bills completed.

There are five bills that have not been signed: State-Justice-Commerce was vetoed, and that is being reviewed by the group I just mentioned, along with the foreign assistance bill; the Interior bill is in conference and should be ready to send to the President today, I hope; the D.C. bill is here, and it should be available to us.

The impact of what I am saying is, I think it is possible, if the Congress has the will to come together now and to work with the President's people who have indicated their desire to finish this appropriations process, that we can finish our business and complete our work by a week from tomorrow. That will take a substantial amount of understanding on the part of everyone.

I am hopeful from what we are hearing now that some of the rhetoric will subside and we will have positive thinking about how to complete our work. But I do urge approval of this conference report.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I will use leader time to say a few words about this bill and where we are.

Mr. President, there is no one for whom I have greater respect for than the distinguished senior Senator from Alaska. But I must say, I question why we are here today voting on a bill that we know will be vetoed. If we are going to try to retain the positive environment to which the senior Senator has just alluded, I do not understand how it is positive to send a bill down to the President that we know will be vetoed, which will then require us to go right back to the negotiating table where we were yesterday. I do not understand that.

I think a far better course is to defeat this bill, go back downstairs, negotiate seriously with the White House, and come together with Democrats to assure that we can pass a bill overwhelmingly.

I do not recall whether I have ever voted against an Education appropriations bill. This may be unprecedented for many of us on this side of the aisle. As I understand it, the distinguished ranking member of the subcommittee on Health and Human Services is going to vote against this bill. I am going to join him, and I am going to join with most Democrats, if not all Democrats, in our unanimous opposition to what the bill represents. That is unprecedented.

We should not have to be here doing this today. If we are serious about doing something positive and bringing this whole effort to closure, I cannot imagine we could be doing anything more counterproductive than to send a bill down that we know is going to be vetoed.

Why is it going to be vetoed? It is going to be vetoed because we violate the very contract that we all signed 1 year ago, a contract that Republicans and Democrats hailed at the time as a major departure when it comes to education. We recognized that, in as consequential a way as we know how to make at the Federal level, we are going to reduce class size, just as we said we were going to hire more policemen with the COPS Program a couple years before. We committed to hiring 100,000 new teachers and ensuring that across this country the message is: We hear you. We are going to reduce class size and make quality education the priority on both sides of the aisle, Republicans and Democrats.

I think both parties took out ads right afterward saying what a major achievement it was. We were all excited about the fact that we did this for our kids, for education, and what a departure it represented from past practice. We did that 1 year ago.

Here we are now with the very question: Should we extend what we hailed last year to be the kind of achievement that it was? A couple of days ago, a report came out which indicated that in those school districts where additional teachers had been hired, there was a clear and very extraordinary development: Class sizes were smaller, quality education was up, teachers were being hired, and this program was working. We had it in black and white—given to every Senator—it is working.

So why now, with that clear evidence, with the bipartisan understanding that we had just a year ago that we were going to make this commitment all the way through to the end, hiring 100,000 new teachers, why now that would even be on the table is something I do not understand. Twenty-nine thousand teachers could be fired.

But it is as a result of the fact that our Republican colleagues continue to refuse to extend and maintain the kind of program we all hailed last year that we are here with a threat of a veto.

I do not care whether it is this week, next week, if we are into December, if it is the day before Christmas, if that issue has not been resolved satisfactorily, we are not going to leave. We can talk all we want to about a positive environment, but we are not going to have a positive environment conducive to resolving this matter until that issue is resolved satisfactorily.

So there isn't much positive one can say about our dilemma on that issue.

Another big dilemma is the extraordinary impact delaying funding will have on the NIH. Sixty percent of the research grant portfolio will be delayed until the last 2 days of this fiscal year—60 percent. Eight thousand new research grants will be delayed and grantees will be denied the opportunity to compete—8,000 grantees. This is

probably going to have as Earth shaking an impact on NIH as anything since NIH was created.

I do not know of anything that could have a more chilling effect on the way we provide funding for grants through NIH than what this budget proposes. We have heard from the institutions that conduct life-saving research. They say you can't stop and start research programs without irretrievable loss.

I will bet you every Senator has been contacted by NIH expressing their concern and the concern of these researchers about the devastating impact this is going to have.

But it is not just the NIH. The cut across the board alone will have a major impact. Five thousand fewer children are going to receive Head Start services; and 2,800 fewer children are going to receive child care assistance; 120,000 kids will be denied educational services.

This cut across the board has nothing to do with ridding ourselves of waste. This goes to the muscle and the bone of programs that are very profoundly affecting our research, our education, our opportunities for safe neighborhoods, and the COPS Program. The array of things that will happen if this cut is enacted will be devastating.

So I am hopeful that we will get serious and get real about creating the positive environment that will allow us to resolve these matters. We have to resolve the class size issue. We have to resolve the matter of offsets in a way that we can feel good about.

I am hoping we are going to do it sooner rather than later—but we are going to do it. It is the choice of our colleagues. We will do it later, but we will all have to wait until those who continue to insist on this approach understand that it will never happen; the vetoes will keep coming; the opposition will be as strong and as united a week or 2 weeks from now as it is today. That is why I feel so strongly about the need to oppose this conference report. Let's go back downstairs and do it right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, as I understand it, the Senator from Pennsylvania has 5 minutes and I have 5 minutes.

Is that correct?

The PRESIDING OFFICER. That is correct.

Mrs. HUTCHISON. Mr. President, I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Texas for yielding to me.

It is my hope that the Senate will support this conference report. I am saddened to hear the arguments from the other side of the aisle which have turned this matter pretty much into a partisan debate.

When we talk about the 1 percent across-the-board cut, frankly, that is something I do not like. But when you take a look at the increases which are in this bill, they remain largely intact, notwithstanding the fact that there will be a 1-percent cut.

For example, on Head Start, at $5.2 billion, it has an increase of some $608.5 million. The 1-percent across-the-board cut will leave, instead of a $608.5 million increase, a $570.9 million increase. You will find that throughout the bill.

When the last Senator who spoke made a reference to the difficulties of the National Institutes of Health in stopping and starting, I point out that it has been the initiative of our subcommittee, significantly a Republican initiative, to increase NIH, which has had the full concurrence of the distinguished Senator from Iowa, Mr. HARKIN, representing the Democrats. But 3 years ago, we sought an increase of almost $1 billion, an increase of some $900 million, after the conference. Last year, we increased NIH funding by $2 billion. This year, the Senate bill had $2 billion, and on the initiative of Congressman PORTER in the House, a Republican, we increased it an additional $300 million. The ranking Democrat would not even attend the conference we had.

So it does not ring with validity for those on the other side of the aisle to point to the National Institutes of Health and say this conference report, this Republican conference report, is doing damage to NIH. The fact is, it is this side of the aisle that has taken the lead. Again, I include my colleague, Senator HARKIN, who has been my full partner. But the lead has been taken on this side of the aisle for the NIH.

Now, this bill has, for these three Departments, in discretionary spending, $93.7 billion, which is an increase of $6 billion over last year. We have $600 million more than the President on these very vital social programs. When it comes to education, this bill has $300 million more than the President. We have provided very substantial funding.

There is a disagreement between this bill and what the President wants on class size reduction. The President has established a priority of class size reduction and wants it his way, and his way exactly. But we have added a $1.2 billion increase in this budget and we have done so listing the President's priority first; that is, to cut class size. We say, if the local school districts don't agree that class size is their No. 1 priority, they can use it on teacher competency, or they can use it for local discretion, but they don't have an absolute straitjacket. I believe that is the solvent principle of federalism.

Why say to the local school boards across America they have to have it for class size if they don't have that problem and they want to use it for something else in education?

Now, Senator HARKIN and I—and I see my distinguished colleague on the floor—have had a full partnership for a decade. He is nodding yes. When he was chairman and I was ranking, and now that I am chairman and he is ranking, we have worked together. I can understand the difficulties of parties, Democrats and Republicans. I know he is deeply troubled by the 1-percent across-the-board cut; so am I. We tried to find offsets and we tried mightily to avoid touching Social Security, without a 1-percent across-the-board cut.

It had been my hope that on my assurances to my colleague from Iowa we could have stayed together on this. I can understand if it is a matter of Democrats and Republicans and he does not see his way clear to do that at this time. I say to him, whatever way he votes—and he smiles and laughs—my full effort will be to avoid a 1-percent across-the-board cut so we can come out with the bill he and I crafted, the subcommittee accepted, the full committee accepted, and the full Senate accepted, which is a very good bill.

In order to advance to the next stage, it is going to be a party-line vote, something I do not like in the Senate. But I urge my colleagues to support the bill so we can move to the next stage.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, as I understand it, I have 5 minutes.

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. Mr. President, I want to follow up with my colleague and friend from Pennsylvania. He is absolutely right; we have had a great working relationship for a long time. He has been open with me, as has his staff. We have had a great working relationship, and I think that proved itself in the bill we brought to the Senate floor. We had a great bill on the Senate floor. We had a strong, bipartisan vote, 75–23. It doesn't get much more bipartisan than that around here. It was about half and half, Democrats and Republicans, voting for it. So it was a good bill, a strong bill.

Now, my friend from Pennsylvania, for whom I have the highest respect and affinity, is right; there are a lot of good things in this bill. It reminds me of sitting down at a dinner and you have a smorgasbord of prime rib, steaks, lamb chops, pasta, and all this wonderful meal spread out, and you can sample each one, but you have to take a poison pill with it. Is that really worth eating? That is the problem with this bill. There are good things in it; I admit that to my friend from Pennsylvania. But this 1-percent across-the-board mindless cut that was added later on—I know not with the support of either one of us on the Senate side—is a poison pill. Then they tried to say this is 1 percent and you can take it from waste, fraud, and abuse, or anything like that. But when you looked at the fine print, it was 1 percent from every program, project, and activity;

every line item had to be cut by 1 percent.

That means in a lot of health programs, labor programs, and in some education programs, with that 1-percent cut, we are actually below what we spent last year—not a reduction in the increase. We are actually below what we were last year.

I ask unanimous consent to have that table printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SAMPLE OF PROGRAMS CUT BELOW A HARD FREEZE UNDER CONFERENCE AGREEMENT [1]

[Compares Labor-HHS items from fiscal year 1999 level to fiscal year 2000 level, total cut in millions]

Program	Amount
DEPARTMENT OF LABOR	
Adult Job Training	$7.38
Youth Job Training	10.01
Youth Opportunity Grants	2.5
Comm. Service Jobs for Seniors	4.4
DEPARTMENT OF HEALTH AND HUMAN SERVICES	
Family Planning	2.14
CDC AIDS Prevention	1.34
CDC Epidemic Services	0.85
Substance Abuse Block Grant	15.34
Medicare Contractors	33.52
Child Welfare/Child Abuse	2.82
DEPARTMENT OF EDUCATION	
Goals 2000	4.91
Teacher Training (Eisenhower)	3.35
Literacy	0.65

[1] Includes 1 percent across-the-board cut.

Mr. HARKIN. When you look at this table, you can see why it is such a poison pill. I am greatly troubled by the vote coming up. I have been on this committee and the subcommittee now since 1985. I have been privileged to chair it and then to be the ranking member with Senator SPECTER as chairman. To my best recollection I have never voted against a Labor-HHS appropriations bill—not once —when Republicans were in charge and then when Democrats were in charge because we have always worked out a reasonable compromise. Well, this will mark the first time that I will have to vote against it. I don't do so with glee. I don't do so as some kind of a pound on the table, saying this is the worst thing in the world. With that poison pill in there, we just can't eat it. I don't think a lot of people can.

This is cutting Social Security, veterans' health care, Meals on Wheels, community health centers, afterschool programs, and education. Well, we all want to protect Social Security. Let's do it the right way. I believe we are going to have to sit down with the White House. I want to make sure Senator SPECTER, Senator STEVENS, and I are there at the table talking about this because I believe there is a way out of this.

We have a scoring from the CBO that if we have a look-back penalty on tobacco companies for their failure to reduce teen smoking, we can raise the necessary budget authority and outlays needed to meet what we have in our Labor-HHS bill without this mindless 1-percent across-the-board cut, without dipping into Social Security. I believe that is the way to go. I notice that Congressman PORTER, the chairman of the House subcommittee, was quoted just this morning as saying he favors making room for needed spending on discretionary programs by some type of a cigarette tax.

He said that with ''the revenue generated by such a proposal we could get rid of all of the accounting gimmicks such as the delayed obligations at NIH.''

I want to say something else about that. There is no one who has been a stronger supporter of NIH than Senator SPECTER has been through all of this.

Again, we had a good bill. We had some delayed obligations at NIH. But we had an amount that they could live with. Now, we are up to an amount of about $7 billion, if I am not mistaken, in delayed obligations at NIH. I believe that is going to cause them some distinct hardships. We have to get those delayed obligations back down to the area we had when we had the bill on the Senate floor.

I compliment Senator SPECTER for doing a great job. He is a wonderful friend of mine, and he has done a great job of leadership on this bill. It is too bad that other authorities someplace decided to put in a poison pill. But, hopefully, after this is over, we can work together, we can get it out, and we can have a bill that is close to the one that we passed on the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. At this time, under the previous order, the Senator from Illinois has 5 minutes, the Senator from New Jersey has 5 minutes, and the Senator from Texas has 5 minutes.

Mr. DURBIN. Thank you, Mr. President.

I urge my colleagues to vote against this bill. This is nominally the District of Columbia appropriations bill. But D.C. is such a small part of it. It is a flea on the back of a big rogue elephant.

We are happy the District of Columbia appropriations bill has reached a point where it should be passed and signed by the President, and the District of Columbia can go on about the business of managing itself. But, unfortunately, leaders in Congress have decided to take this relatively noncontroversial bill and add to it this behemoth of a Labor-HHS appropriations bill.

I am going to vote against this bill. As many others on the Democratic side, it marks probably one of the few times in my career that I have opposed the bill by which we fund the Department of Labor, the Department of Health and Human Services, and the Department of Education. But I think those who look closely at this bill will understand there is good reason to vote against it.

Mark my word; this bill that may pass today is going to be vetoed before the sun goes down, and we will be back tomorrow to talk about the next version of the Labor-HHS bill.

Senator DASCHLE is correct. This is a colossal waste of time. We should be negotiating a bill that can be signed instead of posturing ourselves. But if we are to address a posture, let's look at this bill and the posture it takes on one agency. That agency is the National Institutes of Health.

Let me tell you that if for no other reason, every Member of the Senate should vote against this bill because of the decision of the budget ''smooths'' to change the way that we fund the agency that pays for medical research in the United States of America.

Look at the way this bill would fund the National Institutes of Health. Historically, the blue lines represent more or less even-line spending throughout the year, month after month, by the National Institutes of Health on medical research, on cancer, on heart disease, on diabetes, and on arthritis. That is the way it should be. It is ordinary business, steady as you go. Researchers know the money will be there and that they are going to be able to use their best skills to find cures for the diseases that afflict Americans and people around the world. But some member of the Budget Committee, or the Appropriations Committee, has said: Let's play a little game here. Let's take 40 percent of all the money for the NIH and give it to them in the last 2 days of the fiscal year. Let them sit for 11 months, 3 weeks, and 5 days without the money, and then dump it on them in the last few days so that 40 percent of the money and 60 percent of the grants will be funded at the tail end.

The red line indicates what would happen if this Republican proposal went through. This is irresponsible. If we are going to play games with the budget, let's not do it with the National Institutes of Health.

I will concede, as Senator SPECTER said earlier, both he and Senator HARKIN, as well as Congressman PORTER from my State, have done yeomen duty in increasing the money available to the National Institutes of Health over the years. I have always supported that. I will tell you why.

Each Member of the Senate can tell a story of someone bringing a child afflicted by a deadly disease into their office and begging them as a Member of the Senate to do everything they can to help the National Institutes of Health. It is heartbreaking to face these families. It is heartbreaking, I am sure, to sit on the subcommittee and consider the scores of people who come in asking for help at the National Institutes of Health. But each of us in our own way gives them our word that we will do everything in our power to help medical research in America so that the mothers and fathers and husbands and wives sitting in hospital waiting rooms around America praying to God that some scientist is going to

come up with a cure will get every helping hand possible from Capitol Hill. This bill breaks that promise. This bill plays politics with the National Institutes of Health.

This bill, if for no other reason, should be voted down by the Senate to send a message to this conference and every subsequent conference that if you are going to find a way out of this morass, don't play politics with the National Institutes of Health.

A few weeks ago, I had the sad responsibility of working with a family in the closing days of the life of their tiny little boy who had a life-threatening genetic disorder called Pompey's disease. He never made it to a clinical trial because we could never bring together the NIH and the university to do something to try to help him. But I did my best, as I am sure every Member of the Senate would.

A mother came to see me last year with a child with epileptic seizures that were occurring sometimes every 2 minutes. Imagine what her life was like and the life of her family.

Each and every one of them said to me: Senator, can you do something to help us with medical research? I gave them my word that I would, as each of us does.

Let's make sure this bill today draws a line in the sand and says to future conference committees that we hold the National Institutes of Health sacred, and we will not allow political games to be played with their budget.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the time allotted to Senator LAUTENBERG of 5 minutes be equally divided between Senator MURRAY and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I echo the words of my colleagues, Senator HARKIN from Iowa, and Senator DURBIN from Illinois.

I came here with Senator GRAHAM of Florida when we had this bill on the floor. We talked about the 50-percent cut in title XX block grant social services. That does not sound like much, but let me translate that into human terms.

We talked about the need to have an adequate amount of funding for community mental health services, and the number of people who do not get any care whatsoever. How are we going to deal with people during an extreme mental illness and help children when we don't provide the funding? It is unconscionable.

We talked about the cuts in congregate dining for elderly people, and we talked about cuts for Meals on Wheels for elderly people who can't get dining. We haven't even fully funded that program. Now we are talking about cuts in that program.

What are we about, if we are going to make cuts in these kinds of programs that we haven't adequately funded in the first place?

I talked about the particular problem for Minnesota. When we have these kinds of cuts in these block grant and social service programs, they are passed on to the community level. The States are not involved. It is going to take us a year and a half to two years to provide any of this funding at the State level, if we are ever going to be able to do so.

I say to my colleagues, what about compassion? What about programs that are so important to the neediest people, to the most vulnerable citizens, to children, to the elderly? What are we doing cutting these programs?

I wish Senator GRAHAM was here as well because we restored that 30 percent funding on the floor of the Senate, including community mental health services. All of it has been taken out in conference committee, at least what we were able to add as an increase.

I think that is cruel, shortsighted, unfair, and I don't think it is the Senate at its best.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I join my colleague on this side in urging a ''no'' vote on this bill, simply because, as Senator WELLSTONE just stated, of our compassion for the thousands of women who will not receive services—victims of domestic violence who won't have housing or counseling or health for their young children; the thousands of people who have diabetes or cancer who will not see the result of research done at NIH because of a 1-percent across-the-board cut; and, the thousands of women and children who depend on Head Start, who depend on our education programs, on the social services that are out there so that those young families can grow and be responsible and contribute back to our economy as strong families in the future. A 1-percent cut doesn't take into account the humanity behind the numbers in this bill.

Finally, on the topic of class size reduction, and why this side is so adamant about it, a block grant cannot guarantee that one child will get a better education. Because of the bipartisan work we did last year, today 1.7 million children are getting a better education in a smaller class size that guarantees they will have the ability to read, write, and perform the skills they need to do in order to compete in our complex world. If we continue this program, there will be millions more who are able to learn to read, write, and do better in school.

This is a partnership we have with our States and our local school districts. Our responsibility is to help them do what they need to do; to provide help where help is needed. There has been a call for reducing class size from across this country, because people know what works. The Congress should be a partner and continue our promise of a year ago in making sure that happens.

The bill will be vetoed; it will be an item of contention. The Democrats stand firm. We want to make sure those children get the best education possible. We are a partner in making that happen.

I yield the floor.

IMPACT AID REAUTHORIZATION

Mr. INHOFE. Mr. President, I rise today with several of my fellow Senators to bring an important matter to the attention of our colleagues in the Senate. I refer to the disproportionate allocation of Federal impact aid funding to local school districts across the country.

As you know, this program is a successful example of the role Federal funding can play in education. This program succeeds in placing Federal education dollars directly in the hands of local educators, rather than federal bureaucrats.

State income taxes and local property taxes are often the primary funding sources for public school systems. However, military families pay income taxes to their ''State of residence,'' which may or may not be the same as the State in which their children are attending pubic schools. In addition, military families living on base or American Indians living on trust lands or reservations don't pay property taxes. Public schools are still required to provide these students a quality education. Who pays to educate these children?

Mr. President, Impact Aid fills this gap left when traditional revenue sources are inhibited by the presence of the Federal Government. This program is widely supported by my colleagues. In fact, it's a program which continually receives annual increases in appropriation levels. One would think if more money is flowing into the program then all States are fairly receiving increases in the annual funding levels. Unfortunately, this is not the case.

There is a formula used to determine the amount of funding distributed to each locally impacted school district. While clearly some states are more heavily impacted than others, this formula disproportionately favors certain states and their districts, at the expense of others equally impacted and deserving. Hundreds of school districts across the United States are scraping for the dollars necessary to educate our children. And they are doing it on less and less money every year.

States, local school districts, and parents are the primary resource to educate our children for the future. I would like to inquire of the chairman of Health, Education, Labor, and Pensions his intentions with respect to addressing the formula disparities.

Mr. CAMPBELL. Mr. President, I appreciate my good friend from Oklahoma bringing this to our attention. I have long been a supporter of Impact Aid, and I can speak to this issue from personal experience. For 20 years, my

wife Linda taught at a school in southwest Colorado which is dependent upon the program, so I know firsthand its vital importance. In fact, more than 24 million acres of land in Colorado are federally owned lands. Impact Aid eases the burden on surrounding school districts with a smaller tax base because of these Federal lands, ensuring a high-quality education for all students.

My home State of Colorado has lost 16 percent in funding since this program was reauthorized in 1994. As the Impact Aid reauthorization is considered early next year, I look forward to a fair and honest evaluation of the funding formula.

Mr. COCHRAN. Mr. President, I thank the Senator from Oklahoma for bringing the problem of Impact Aid fund distribution to the attention of the Senate.

In my State, the Impact Aid payments to schools is a relatively small sum, about $300,000. So, it is especially important that those funds are distributed in an accurate and timely manner. I hope that in our consideration of reauthorizing the elementary and secondary education programs, that Impact Aid is given careful review. I will work to be of assistance in this effort.

Again, I thank my friend from Oklahoma for his leadership on this issue. And, I thank the chairman of the Health, Education, Labor, and Pensions Committee, the Senator from Vermont, for his willingness to address the issue.

Mr. NICKLES. I appreciate my colleagues Senator JEFFORDS and Senator KENNEDY working to remedy this situation. As my colleagues know, Oklahoma has historically come out on the short end of the funding stick in terms of Impact Aid distribution formulas.

Oklahoma has a very large number of impacted districts and this funding is so crucial for them. However, since the last authorization of Impact Aid, Oklahoma has lost 29 percent in Impact Aid funding.

I encourage my colleagues to continue to work, as they have been, to address this inequity to ensure that all States are served by the Impact Aid Program.

Mr. JEFFORDS. Mr. President, I appreciate the Senator from Oklahoma's bringing this matter to my attention. The Committee on Health, Education, Labor, and Pensions is currently preparing legislation to reauthorize programs included in the elementary and Secondary Education Act. The reauthorization process offers an opportunity for congress to review the operations of these programs and to make appropriate modifications. During the last reauthorization of ESEA in 1994, we revised the Impact Aid Program in a way intended to target resources to districts based on their relative need in terms of serving federally connected children. I believe that is the right direction to take and am open to considering any proposal which assists us in better meeting this objective. I welcome the recommendations of all Members and look forward to further discussions regarding the problem which my colleague from Oklahoma wishes to address.

Mr. KENNEDY. Mr. President, I appreciate the comments from my colleagues, and I thank them for bringing this matter to my attention. I will work with Chairman JEFFORDS during the reauthorization of the Elementary and Secondary Education Act to ensure that the Impact Aid Program adequately addresses the needs of students in federally impacted school districts, and that funding is directed to the districts with the most need, and is distributed in an equitable manner. I look forward to working with Senator JEFFORDS, Senator INHOFE, and other colleagues to address these issues fairly.

Mr. INHOFE. Mr. President, I thank my friends from Vermont, Massachusetts, Mississippi, Colorado, and Oklahoma for their interest in the reauthorization of Impact Aid and how it affects our States and most importantly our children. I look forward to working together to protect all impacted students.

Mr. ROBB. Mr. President, I had hoped that this year, we could have a reasonable and orderly appropriations process, where we would make the tough decisions that are required to live within our means. I had hoped that we could prioritize our spending, increasing funding for defense to strengthen our nation's readiness, investing in school improvements, devoting needed funds to science and basic research, enhancing our transportation system, and reducing our seemingly inexhaustible demand for pork-barrel projects.

Instead, we are now at the end of the appropriations process and we are facing the prospect of spending even more than we have taken in—despite the fact that revenues exceeded estimates and an on-budget surplus was available to us. At this point we face a Hobson's choice. In order to fulfill a commitment to protect the Social Security surplus that both political parties made to the American people we have to vote for a process that is abhorrent to any concept of responsible budgeting and legislating. In order to fund unwanted and unneeded legislative pork we're taking money from every legitimate program we've already funded—including crucial defense spending and reducing class size.

Rather than making the hard choices throughout the process, and foregoing popular parochial spending that is not critical to our nation's needs, we are forced to make an across-the-board cut in order to meet our commitment. This is not the responsible way to govern. In fact, it's indefensible. We haven't done our job, Mr. President. We're playing rhetorical games and posturing artificially in order to keep this little secret from the American people.

I will vote for this bill very reluctantly because it's the only measure on the table that meets our commitment. Once the President vetoes this bill, then we can get back to the business of making the hard choices. Cutting spending is never easy or popular, but it is necessary if we are to keep our promises.

I oppose spending the Social Security trust funds because I believe that when we voted years ago to take the Social Security trust fund off-budget, we did so in an effort to impose fiscal discipline on ourselves. Although it has taken years to get to a point where we didn't have to rely on Social Security surpluses to pay our bills, we are now at that point, and we've promised the American people that we will refrain from using Social Security and Medicare taxes to fund other government programs. I support the promise because it helps strengthen our spine to cut unnecessary spending. But strengthening Social Security and Medicare for the long term will take more than just placing the trust funds ''off limits.''

Mr. President, we have once again limped pathetically to the end of the appropriations process, past the deadline and over the budget. The mere fact that we have to do an across-the-board cut is a testament to the failure of this budget process. If we have to choose between thoughtful budgeting and honoring a commitment, I will vote to honor the commitment. But that shouldn't be the choice.

I will vote for this bill, knowing that it will be vetoed, to send a strong and clear message: government should not spend more than it takes in.

Mr. LEAHY. Mr. President, this morning I voted against the Conference Report for the Labor-HHS-Education-DC Appropriations bill. I am extremely disappointed with the budgetary stalemate that this Congress seems to have reached. This Congress is yet to do much work that we should be proud of and more than a month into the new fiscal year, we have failed to even complete our appropriations work.

I want to mention just a few of the problems I had with this Conference Report. First, this Report made significant reductions to essential programs funded through the Education Department. For example, the proposal before us provided no funding for a class size reduction program that this Congress supported just last year. Vermont is a state that generally enjoys small class sizes for our students. But even Vermont, a rural state with fairly small student to teacher ratios benefits, from the President's visionary program to put more teachers into our class rooms.

Second, this Conference Report made unacceptable cuts to programs funded through the Department of Health and Human Services. For example, this bill cuts $44 million in requests from the Centers for Disease Control to immunize over 333,000 children against childhood diseases.

In addition to these programmatic cuts, the Conference Report contained

budget gimmicks including the use of the Social Security Trust Fund and an across the board cut in spending that reflects Congress' inability to budget responsibly. I understand the President made it very clear that he will veto this Report when it gets to his desk. In spite of this knowledge, my colleagues on the other side felt it was a productive use of our time to none the less move forward with an unacceptable bill, rather than attempt to negotiate and reach a compromise.

The conference report included a .97 percent across the board, government-wide cut in all discretionary programs. This included the funding for programs such as education and crime prevention—two essential programs for ensuring the safety of our youth. The Office of Management and Budget has estimated some of the effects of this type of across the board cut. For example, approximately 71,000 fewer women, infants, and children would benefit from the important Special Supplemental Nutrition Program for Women, Infants, and Children, also known as the WIC program. An across the board cut of this nature would also mean 1.3 million fewer Meals on Wheels will be delivered to the elderly.

Americans have witnessed over the past several weeks an enormous amount of finger pointing from both sides of the aisle about who's using the Social Security surplus and who's not. I don't think there's much to dispute. According to the non-partisan Congressional Budget Office, even with the so-called across the board cuts, the Republican proposed spending plan will still mean taking $17 billion from the Social Security Trust Fund.

Let's step back and look at the message that we have sent to Americans by agreeing to this Conference Report and sending it to the President. We have made a statement that we are not interested in placing our students into smaller class sizes even though research has shown they will learn faster with less discipline problems and will have higher high school graduation rates. We have said that we are not interested in ensuring the health of our children by providing immunizations that are known to prevent severe illness and even death form numerous childhood diseases. Finally, we have said that we are not concerned about the nutrition of our women and children nor are we interested in the nutrition of our homebound elderly.

What kind of priorities does this Congress have? Looking at this Conference Report and at our work over the past few months, it's hard for me to tell. We have failed on many fronts to do the work the people of this country have sent us here to do. We haven't passed a comprehensive Patients' Bill of Rights. We have not passed responsible gun control legislation. Just last week we were reminded that we have failed to pass comprehensive medical privacy legislation, leaving the Administration to do our work for us. And now, we can't even do one of our most important jobs—appropriating responsibly.

Mr. President, the Labor-HHS-Education-DC Appropriations Conference Report that this Senate passed this morning is just another example of where this Congress has failed. I look forward to the day when we can return to a time when we act responsibly and do the work the American people expect of us.

Mr. SANTORUM. Mr. President, I rise today to urge my colleagues and the American people to carefully consider one of the most pressing public health issues which faces America, an issue about which far too few people are aware and which is ever so obliquely tucked into the many pages of the appropriations measure we are about to consider.

This issue has to do with the workings of our national organ transplantation and allocation system and by extension the lives of hundreds of Americans whose lives hang in the balance.

Ideally, our national organ transplantation and allocation system—which at its core is about saving lives—would be governed according to standard medical criteria whereby donated organs go to those who need them most. Sadly, though, this is not the case. Our current organ allocation system has evolved into a needlessly contentious debate where fragile life-and-death decisions are being reduced to economic—and many times geographic—factors.

If you are an American citizen who needs a liver transplant to survive, and you reside in Arizona, California, Colorado, Connecticut, Illinois, Massachusetts, Maryland, Michigan, New York or Pennsylvania, you have much less chance of receiving a transplant than someone else with a similar level of illness who lives in another part of the country. That is the conclusion of the latest patient outcome data from the U.S. Department of Health and Human Services (HHS).

Despite enhanced capacities to keep organs viable for longer periods of time and to make them available to those who would benefit most, many regional transplant centers are still attempting to keep donated organs in their own geographic area. These ''organ hoarding'' policies and practices contribute to the deaths of thousands of Americans whose lives could otherwise be saved.

Consider: While an estimated 62,000 potential recipients are waiting their turn to receive organs, only 20,000 transplants take place in a given year. More than 4,000 Americans die each year—at least 11 per day—while awaiting organ transplants. Of those, it is estimated that 1,000 Americans—more than 3 each day—might have been saved if the system operated more fairly.

Last year, HHS issued new regulations designed to reduce these inequities. The 1998 Final Rule contained provisions to make the national organ transplant system more fair. Its goal was to ensure that the allocation of scarce organs is based on medical criteria determined by physicians, and not on geography. But a rider to the 1998 omnibus spending bill delayed implementation of the regulations for a year—and required the Institute of Medicine (IOM) to study the impact of the Final Rule.

Whereas I opposed the moratorium that Congress passed just over one year ago because I was convinced that the HHS rule was in the best interest of patients, many of my colleagues ignored previous studies by the Office of the Inspector General and the General Accounting Office, among others, and were swayed by the rhetoric of this very emotional debate when they supported this one-year moratorium. Proponents of the moratorium then argued that we did not have sufficient evidence to conclude that the current system has inequities. So innocent transplant candidates had to wait at least another year for a sensible policy of broader organ sharing.

Yet, ironically, some of my colleagues' action of endorsing a moratorium reflected a bit of wisdom. If not for the provision in the Omnibus Appropriations bill of 1998 which called on the IOM to study these issues, we would not have such clear evidence in support of the rule, evidence that is void of partisan or special interest input. By its very nature, the IOM was able to distance itself from the pronouncements of those with vested interests and to undertake an academic, evidence-based review of the issues. To question the integrity of the report is to question the integrity of the Institute of Medicine, of our nation's greatest minds, and of the scientific process itself.

As charged by Congress, the IOM released its report on June 20, 1999. And the results were a vindication for patients everywhere and irrefutably argue for pressing forward with the HHS Final Rule with its call for broader organ sharing. The IOM report has five noteworthy highlights.

The first is waiting times. The IOM concludes that waiting time for liver transplantation is an issue only for the most critically ill patients. For patients who are less acutely ill, waiting time is not an appropriate criterion in deciding about the allocation of donor organs. The IOM suggests that equitable access to transplantation would be best facilitated by development of a system with objective criteria that reflect medical need.

The second is larger Organ Allocation Areas. The HHS Final Rule places priority on sharing organs as broadly as possible, within limits dictated by science and technology. The IOM report concurs with this approach, and specifically recommends establishing Organ Allocation Areas (OAAs) for livers. The IOM suggests that OAAs serving at least nine million people each would significantly promote equity in

access to transplantation, and be feasible with current technology.

The third is federal oversight. The IOM report recommends that HHS continue to exercise the legitimate oversight responsibilities assigned to it by the National Organ Transplant Act. The report further notes that strong federal oversight is necessary and appropriate to manage the system of organ procurement and transplantation most effectively in the public interest. The report also recommends the establishment of an Independent Scientific Review Board to assist the Secretary in these efforts.

The fourth is data collection and dissemination. The IOM report finds that current data are inadequate to monitor some aspects of the organ transplantation program. They suggest that the Organ Procurement and Transplantation Network contractor should improve data collection, and make standardized and useful data available to independent investigators and scientific reviewers in a timely fashion.

The fifth is effects on organ donation and small transplantation centers. The IOM was also asked to consider whether the requirements in the Final Rule would decrease organ donation, or cause harm to small organ transplantation centers. It found no evidence to suggest that either of these concerns would be realized. The IOM concurs that changes in the organ transplantation system—along the lines proposed by the Secretary—would improve fair access to lifesaving transplantation services.

Mr. President, 20 years ago retaining local allocation of organs was a sensible policy because organ viability—the window of opportunity during which an organ can be successfully transplanted—was not very long. But over the past two decades, the scientific knowledge and techniques for the retrieval, preservation and transplantation of donated organs have improved tremendously and have led to the development of organ transplantation as a means to save lives. These recent advances in science and technology now permit broader sharing of organs, with more focus on medical necessity and less restriction by geography as criteria for organ allocation. And yet, despite these enhanced capacities to keep organs viable for longer periods of time and to make them available to patients in parts of the country far from where those organs first may have been retrieved, many small regional transplant centers incredibly still fight to keep donated organs in their own geographic area.

The Final Rule reflects ongoing commitment by the Secretary of Health and Human Services (HHS), which I share with many of my colleagues on both sides of the aisle, to maintain the most equitable and advanced transplantation system and to reform the anachronistic allocation system which is needlessly costing lives.

The basic principles that underlie the 1998 Final Rule were supported by the conclusions of the IOM study. In late October of this year, HHS released a revised Final Rule, incorporating information and suggestions from the IOM and from the transplant community. This revised Final Rule is the culmination of the IOM study, four Congressional hearings, public hearings and consultations conducted by HHS, and nearly five years of public comment.

Today, proponents of the status-quo system of rank inequities have managed to include in this bill language which calls for yet another moratorium. They now say that any new regulations must be developed only after the National Organ Transplantation Act (NOTA) is reauthorized. This is an interesting change of argumentation now that the facts, as contained in the IOM report and other publications, have been publicized about how the current system in fact does not operate in the public's interest.

Whereas I certainly look forward to working with my colleagues to reauthorize NOTA, and most especially to the opportunity to develop a clear mandate and strategies for increasing organ donation, plans for future NOTA reauthorization should not be used as an excuse to perpetuate the current inequitable system which the Final Rule seeks to remedy. Additionally, the current NOTA statute does provide the Secretary with the necessary authority to immediately address the needs of those who are dying every day because of inequities in the system.

Currently, NOTA mandates that HHS and the transplant community share responsibility to govern the organ transplantation and allocation system. The he underlying principle on which Congress enacted NOTA back in 1984 to better coordinate the use of donated organs and to address the concern that the sickest patients receive priority for organ transplantation. As a result of this law, the Organ Procurement and Transplantation Network (OPTN) was established. As you know, the OPTN's membership is comprised of organ procurement organizations and hospitals with transplant facilities. The primary function of the OPTN is to maintain both a national computerized list of patients waiting for transplantation and a 24-hour-a-day computerized organ placement center, which matches donors and recipients. Currently, the United Network for Organ Sharing (UNOS), a private entity, holds the federal contract for the OPTN and establishes organ allocation policy.

I would like to assure my colleagues that under the revised Final Rule, development of the medical and allocation policies of the OPTN remain the responsibility of transplant professionals, in cooperation with the centers, patients and donor families represented on the OPTN board. Most importantly, in the revised Final Rule, HHS provides for the public accountability that is necessary for a national program on which so many lives depend.

The HHS regulations for broader organ sharing have been the subject of rigorous debate in Congress, within the transplant community, and on the pages and airwaves of the local and national media. While constructive discourse is the root of our democracy, what has concerned me over the past couple of years is that deceit and fear have characterized this particular debate. Even for those who are extremely close to these issues, it has become more and more difficult to distinguish the true facts. Indeed, this is the very reason that Congress stipulated the Institute of Medicine study this issue.

My greatest concern is for the lives of worthy, innocent transplant candidates which hang in the balance each day, each hour, each minute that we delay moving forward with these regulations. Please make every consideration to expedite the process so that the transplant community can move forward to improve the system so that more lives can be saved.

As my colleagues may know, the federal Task Force on Organ Transplantation (formed in 1986), in a critical decision, established that donated organs belong to the community, and it identified that community as a national one. Consistent with this decision, the new HHS regulations identify donated organs as a precious national, not local or regional, resource—thus helping to elicit what James Childress, a medical ethicist who served on the transplant task force, calls ''communal altruism'' or public commitment to organ donation. Childress, an authority on the subject of organ donation, states in a 1989 edition of the Journal of Health Politics, Policy and Law, ''Donations of organs cannot be expected unless there is public confidence in the justice of the system of organ distribution.''

In order to maintain an effective system for the allocation of life-saving organs, we must first ensure that we have an adequate supply of those organs. An adequate supply relies on public generosity and commitment, which, in turn, relies on the public perception that the system for organ allocation is both publicly accountable and fair.

The HHS regulations have prompted debate in large part because they would change the allocation system from a local/regional one to one of broader organ sharing. They would allocate organs to the most medically urgent patients first, rather than to those residing in the same geographic area as where the organ was donated. And I emphasize, that while the HHS regulations call for a national system, they do not call for a national allocation system. They leave the specific policy decisions in the hands of the transplant community.

I have registered as an organ donor; when I die, I do not care whether or not my organs go to a resident of Pittsburgh; I hope they go to the person who needs them the most. The majority of Americans share my sentiments. According to the results of a Gallup public opinion survey released this past

June, most Americans—83 percent—want donated organs to go to the sickest patients first, regardless of where they live.

Not only do the HHS guidelines meet standards of effectiveness, in part, by helping to ensure broad public commitment to organ donation, they also meet the related standard of equity. By creating a process designed to lead to a broader geographic sharing of organs, these proposed regulations equalize waiting times among transplant centers, thus also—and effectively—save more lives. CONSAD Research Corporation has already identified a number of alternative policies that would equalize waiting times and save more lives.

The HHS regulations further require standardized medical criteria to be used when placing patients on the national waiting list and determining their priority among all patients needing organ transplants throughout the United States. They therefore call for equitable organ allocation throughout the country to ensure that the most medically urgent patients, within reasonable medical parameters, have first access to organs.

We know that there currently exists enormous disparity in waiting times for organ transplantation from region to region in the United States.

Mr. President, I ask unanimous consent that the chart of recently released HHS data be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF PERCENTAGE OF PATIENTS WHO RECEIVE LIVER TRANSPLANTS WITHIN ONE YEAR

[All numbers are percentage]

Below national median	National median	Above national median
University Medical Center, Tucson, Arizona—42.	47	St. Luke's Episcopal, Houston, Texas—66.
Stanford University, Palo Alto, California—29.	47	Latter Day Saints Hospital, Salt Lake City, Utah—58.
University Hospital, Denver, Colorado—38.	47	St. Louis University, St. Louis, Missouri—56.
Yale Hospital, New Haven, Connecticut—23.	47	Jackson Memorial, Miami, Florida—67.
University of Illinois, Chicago, Illinois—23.	47	Froedtert Memorial, Milwaukee, Wisconsin—83.
Indiana University, Indianapolis, Indiana—37.	47	Jewish Hospital, Louisville, Kentucky—75.
Massachusetts General, Boston, Massachusetts—29.	47	Rochester Methodist, Rochester, Minnesota—68.
Johns Hopkins, Baltimore, Maryland—23.	47	Vanderbilt University, Nashville, Tennessee—73.
University of Michigan, Ann Arbor, Michigan—24.	47	Fairview University, Minneapolis, Minnesota—63.
North Carolina University, Chapel Hill, North Carolina—39.	47	Medical University, Charleston, South Carolina—61.
Thomas Jefferson, Philadelphia, Pennsylvania—28.	47	Ohio State, Columbus, Ohio—55.
New York University, New York, New York—40.	47	University Hospital, Newark, New Jersey—80.

Source: U.S. Department of Health and Human Services, 1999.

Mr. SANTORUM. Mr. President, these disparities were first brought into sharp focus in the 1997 Report of the OPTN: Waiting List Activity and Donor Procurement, and now even more so in this recently released HHS data. Why the median liver transplantation rate during one year for ''listed'' candidates in Chicago would be 23% and 83% in Milwaukee is unconscionable. Equally disturbing is that a patient of blood type ''O'' would have a median waiting time of 721 days in western Pennsylvania and just 46 days in Iowa.

As we can see from the facts under the current allocation system, often a critically ill patient in one region can go without a life-saving organ while a healthier patient in another region—one with a larger supply of organs—can be treated as a priority.

In meeting this standard of equity, the HHS regulations can help to prevent what has become an alarming and extremely parochial trend—that of states passing ''local first'' laws or resolutions. Kentucky, Louisiana, Oklahoma, South Carolina, Wisconsin, Arizona and Texas have either passed laws or resolutions or have proposed such laws that strive to keep organs in their respective states, while not necessarily allocating these organs to state residents.

This is a critical distinction: Patients often travel from other states for the high-quality care offered by large transplant centers, which generate considerable revenue. When states seek to retain organs in this manner, they are serving economic self-interest, not patient interest. And what of the patients who reside in states with no liver or heart transplant program? These patients, including those with Medicaid and Medicare, must travel to other states, where the access to organs and the waiting times can vary significantly.

The new HHS guidelines would better meet procedural and substantive standards of justice than does current policy. They would encourage more public participation in the policy making process and, therefore, more accountability, and they would equalize the treatment of medically similar cases.

In developing policies for the life-and-death issue of organ allocation, we should rise to broadly accepted standards of justice rather than acquiesce to narrowly defined regional interests.

Arthur L. Caplan of the University of Pennsylvania Center for Bioethics and Peter Ubel of the Philadelphia Veterans Affairs Medical Center wrote in The New England Journal of Medicare on Oct. 29, 1998, ''We believe that the United States should end policies that permit geographic inequities and move quickly to determine the best use of data on the efficacy of outcomes to create a more equitable national system of distribution.''

Because I believe that any organ allocation system should be defined by, and accommodate, the moral principles of effectiveness and equity, I strongly support the proposed change to a national allocation system as outlined in the Department of Health and Human Services revised regulation. I firmly believe that the Secretary needs to exercise her authority so that a more equitable system based on uniform medical criteria can immediately move forward. Again, I will repeat for my colleagues that plans for future NOTA reauthorization should not be used as an excuse for delay while innocent Americans are needlessly dying. Further delay prevents more needy transplant candidates from receiving vital, life-saving organs.

Now, I realize that this body will likely adopt this conference report, despite its containing this controversial language for another moratorium. But let us bear in mind that the President has vowed to veto this legislation over this issue and other spending priorities contained herein.

Thus, it is not too late. When our leaders reconvene to negotiate budget priorities with the administration, I urge my colleagues to oppose another moratorium, and join me in ending a system that unfairly deprives patients of access to life-saving organ transplantation, and allow the regulations to go forward. This is an issue which transcends politics.

• Mr. McCAIN. Mr. President, I regret that I was unable to be here for the vote but I thank the conferees for their hard work on the conference report that provides federal funding for the District of Columbia, the Departments of Labor, Health and Human Services (HHS), and Education. I am very disappointed that this report includes wasteful, locality-specific, pork-barrel projects, legislative riders, and budget gimmicks such as ''forward funding'' and a 1-percent cut in government spending across-the-board. Therefore, I cannot support this bill.

This legislation is intended to provide funding directly benefiting American families and senior citizens while assisting our most important resource, our children. It provides funding to help states and local communities educate our children. It also provides the funds to support our scientists in finding treatments for illness. This report also provides funds for ensuring our nation's most vulnerable—our children, seniors and disabled have access to quality health care. Furthermore, it provides the monetary support for important programs assisting older Americans including Meals on Wheels and senior day care programs.

I am pleased that this legislation took an important step towards ensuring that our nation's schools have the flexibility to determine how to meet the unique educational needs of their students instead of Washington bureaucrats mandating a ''one size fits all'' policy. Second, this bill provides a significant increase in funding for the National Institutes of Health (NIH) which is critical in our ongoing battle against disease.

These are just some of the important provisions in this conference report. There are many additional items which are as pertinent to our nation's well-being which makes it all the more frustrating that this bill is still laden with earmarks, legislative riders and unjustifiable budget gimmicks.

First, this legislation contains $388 million in total pork-barrel spending

($335 million in earmarks and set-asides for the Departments of Health and Human Services, and Education). Some of the more egregious violations of the appropriate budgetary review process include:

$2.5 million for Alaska Works in Fairbanks, Alaska for construction job training;

$1.5 million for the University of Missouri-St. Louis for their Regional Center for Education and Work;

$104 million for the construction and renovation of specific health care and other facilities including: Brookfield Zoo/Loyola University School of Medicine, University of Montana Institute for Environmental and Health Sciences and Edward Health Services, Naperville, Illinois; and

$3,000,000 to continue the Diabetes Lower Extremity Amputation Prevention (LEAP) programs at the University of South Alabama.

While these projects may have good reason to be deserving of funding, it is appalling that these funds are specifically earmarked and not subject to the appropriate competitive grant process. I am confident that there are many organizations which need financial assistance and yet, are not fortunate enough to have an advocate in the appropriations process to ensure that their funding is earmarked in this legislation. This is wrong and does a disservice to all Americans who deserve fair access to job training and quality health care.

Some of the legislative riders include $3.5 million in this report to implement the Early Detection, Diagnosis, and Interventions for Newborns and Infants with Hearing Loss Act. This legislative initiative was inserted into the Senate and House appropriation bill without hearings or debate on this proposal by either chamber. I applaud the intentions of this measure and share my colleagues' support for helping ensure that all hospitals, not just the current 20%, provide screening in order to produce early diagnosis and intervention for our children to ensure that they have an equal start in life and learning. However, the manner in which it was included in this measure bypasses the appropriate legislative procedure. Instead, this measure should have been given full consideration by the Senate as a free-standing initiative or as an amendment to appropriate legislation.

Furthermore, I am also opposed to the use of budget gimmicks in this report. First, the report has opted to use the newly popular budget gimmick of ''forward funding,'' used to postpone spending until the next fiscal year to avoid counting costs in the current fiscal year. What this means is that $10 billion in funding for job training, health research, and education grants to states is pushed into next year—a budgetary sleight of hand that merely delays the inevitable accounting for these tax dollars. What a sham.

Finally, now that the surplus has been spent for pork-barrel spending instead of shoring up Social Security and Medicare, paying down the debt, and providing tax relief, the appropriators have opted to include a 1-percent cut in government spending across-the-board to keep Congress from touching Social Security. Why not just cut the pork-barrel spending in the first place to avoid resorting to such gimmicks?

Mr. President, because of the egregious amount of pork-barrel spending in this bill, the addition of legislative riders, and the 1-percent across-the-board spending cut, I must oppose its passage. I regret doing so because of the many important and worthy programs included in the conference agreement, but I cannot endorse the continued waste of taxpayer dollars on special interest programs, nor can I acquiesce in bypassing the normal authorizing process for legislative initiatives. If an Omnibus appropriations bill is required in order to complete the appropriations process for fiscal year 2000, I hope that the Congress finds the courage to remove the many earmarks, the budget gimmicks, and the legislative riders contained in this report, the bill, and all others so that we can provide the much needed financial support for job training, education, health care, research and senior programs and avoid a congressional sequester.

The full list of the objectionable provisions is on my Senate website.●

Mrs. HUTCHISON. Mr. President, I have heard the most amazing rhetoric on the other side. I am told by my colleague from Minnesota we have cut all the increases the Senate put in this bill. What is wrong is the facts. We haven't cut the increases. In fact, we haven't cut them out at all. We have increased in the areas where we have prioritized.

Education: $2 billion more than in last year's budget. What does a 1-percent cut across-the-board mean? It means $1.8 billion more than we spent last year.

NIH: We are committed to giving NIH double the funding for medical research in this country. We are keeping our promise. We are increasing NIH $1.8 billion over last year.

Head Start: We increased it $600 million. A 1-percent cut means we are increasing it $594 million.

We are keeping a promise. We have said the most important thing we are going to do in this Congress is keep our Social Security surplus intact. We are doing it by making sure we do not go into that surplus. We are making a 1-percent across-the-board cut in increases because we have given so much more than we did last year.

Let me talk about what happens in a 1-percent decrease. Any person who has ever run a corporation or an agency or even an office knows a 1-percent cut does not go in the programs. We are not going to lose teachers. We are not going to lose people who are getting veteran benefits. They are going to cut travel budgets, office supplies; they will cut in the bureaucracy; that is, if they have the responsibility to make the right decisions.

We are going to keep our promise to keep social security intact. We are going to do it in a responsible way so they can take cuts in travel budgets, they can take cuts in their bureaucracies to make sure the programs are funded at the increased levels that Congress is requiring them to do.

This is the most responsible act Congress has taken. I am stunned the other side will not step up to the plate and do what they promised also; that is, keep Social Security intact.

I yield my remaining time to Senator DOMENICI.

Mr. DOMENICI. Mr. President, I will not repeat what has been stated, other than generally to say most of the social programs in this bill, from Meals on Wheels to student aid to everything else in between, even after the .97-percent cut, are substantially higher than last year and, in almost every instance, higher than what the President of the United States asked for in his budget.

If doing that amounts to cutting a program, then, frankly, I don't understand what it means to increase a program and increase them as dramatically as we have in this bill. The best friend the National Institutes of Health has ever had is a Republican Congress. We are increasing National Institutes of Health because people such as CONNIE MACK and a few others have said double it in the next 5 years. In this bill, we had in NIH $2.3 billion more than the President; with the across-the-board cut, we are $2 billion in appropriations more than the President.

Essentially, there has been a lot of talk about saving Social Security, and we have used some OMB scoring where we think it is appropriate. There are those who still come to the floor and act as if they actually know we have infringed on the Social Security surplus. Let me repeat for the Senate, in March, April, or May of next year, I predict with almost absolute certainty that a budget comes out close to this budget produced by Senator STEVENS and the appropriations bill and will not take any money out of Social Security.

They can argue that the President's numbers wouldn't have taken any out—CBO's numbers might. But essentially, when the bell tolls and we do the reevaluation, we are going to be able to say to the senior citizens we didn't touch Social Security. The .97 is important to that solution.

Mrs. HUTCHISON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—49

Allard	Gorton	Nickles
Bennett	Gramm	Robb
Bond	Grams	Roberts
Brownback	Grassley	Roth
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Byrd	Helms	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kyl	Thomas
Crapo	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Warner
Enzi	McConnell	
Frist	Murkowski	

NAYS—48

Abraham	Edwards	Levin
Akaka	Feingold	Lieberman
Ashcroft	Feinstein	Lincoln
Baucus	Fitzgerald	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Hollings	Reed
Boxer	Inouye	Reid
Breaux	Johnson	Rockefeller
Bryan	Kennedy	Santorum
Cleland	Kerrey	Sarbanes
Conrad	Kerry	Schumer
Daschle	Kohl	Torricelli
Dodd	Landrieu	Voinovich
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden

NOT VOTING—2

Gregg	McCain

The conference report was agreed to.

Mrs. HUTCHISON. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AFRICAN GROWTH AND OPPORTUNITY ACT—Resumed

Pending:

Lott (for Roth/Moynihan) amendment No. 2325, in the nature of a substitute.

Lott amendment No. 2332 (to amendment No. 2325), of a perfecting nature.

Lott amendment No. 2333 (to amendment No. 2332), of a perfecting nature.

Lott motion to commit with instructions (to amendment No. 2333), of a perfecting nature.

Lott amendment No. 2334 (to the instructions of the motion to commit), of a perfecting nature.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 215, H.R. 434, an act to authorize a new trade and investment policy for sub-Sahara Africa.

Trent Lott, Bill Roth, Mike DeWine, Rod Grams, Mitch McConnell, Judd Gregg, Larry E. Craig, Chuck Hagel, Chuck Grassley, Pete Domenici, Don Nickles, Connie Mack, Paul Coverdell, Phil Gramm, R. F. Bennett, and Richard G. Lugar.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the substitute amendment No. 2325 to Calendar No. 215, H.R. 434, an act to authorize a new trade and investment policy for sub-Sahara Africa, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The yeas and nays resulted—yeas 74, nays 23, as follows:

[Rollcall Vote No. 344 Leg.]

YEAS—74

Abraham	Fitzgerald	Lugar
Akaka	Frist	Mack
Allard	Gorton	McConnell
Ashcroft	Graham	Mikulski
Baucus	Gramm	Moynihan
Bayh	Grams	Murkowski
Bennett	Grassley	Murray
Biden	Hagel	Nickles
Bingaman	Harkin	Robb
Bond	Hatch	Roberts
Breaux	Hutchinson	Rockefeller
Brownback	Hutchison	Roth
Bryan	Inhofe	Santorum
Burns	Jeffords	Schumer
Cochran	Johnson	Sessions
Coverdell	Kerrey	Shelby
Craig	Kerry	Smith (OR)
Crapo	Kohl	Specter
Daschle	Kyl	Stevens
DeWine	Landrieu	Thomas
Dodd	Lautenberg	Thompson
Domenici	Leahy	Voinovich
Durbin	Lieberman	Warner
Enzi	Lincoln	Wyden
Feinstein	Lott	

NAYS—23

Boxer	Edwards	Reid
Bunning	Feingold	Sarbanes
Byrd	Helms	Smith (NH)
Campbell	Hollings	Snowe
Cleland	Inouye	Thurmond
Collins	Kennedy	Torricelli
Conrad	Levin	Wellstone
Dorgan	Reed	

NOT VOTING—2

Gregg	McCain

The PRESIDING OFFICER. On this vote, the yeas are 74, the nays are 23. Three-fifths of the Senate duly chosen and sworn having voted in the affirmative, the motion is agreed to.

AMENDMENTS NOS. 2332 AND 2333 WITHDRAWN

Mr. LOTT. Mr. President, I ask consent that amendments 2332 and 2333 be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2332 and 2333) were withdrawn.

Mr. LOTT. Mr. President, I remind the Senate pending is the trade bill with the substitute amendment pending in the first degree. Cloture was invoked; therefore, there is a total time restriction of 30 hours, including quorum calls and rollcall votes. Under an additional consent, relevant trade amendments are in order in addition to the germaneness requirement under rule XXII. Those additional first-degree trade relevant amendments must be filed by 2:30 today.

I urge all Senators to offer and debate their amendments in a timely fashion. I request relevant amendments not be abused so we can complete this very important trade legislation.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the Senator from Delaware.

Mr. ROTH. Mr. President, I thank my colleagues on both sides of the aisle for their support for the cloture motion. The vote reflects the strong bipartisan support for the bill.

I also want to extend my thanks to the distinguished majority and minority leaders, who worked so hard to find the compromise that would allow the bill to move forward.

Due to their hard work, we have the opportunity to send a clear statement to our neighbors in the Caribbean, Central America, and Africa that we are willing to invest in a long-term economic relationship—a relationship of partners in a common endeavor of expanding trade, enhancing economic growth, and improving living standards.

Most importantly, this bill will also send a clear signal to our trading partners around the world who will join us shortly in Seattle for the ministerial meeting of the World Trade Organization. It signals that the United States is prepared to engage constructively in the wider world around us and to provide the leadership necessary to achieve our common goals.

Most importantly, the bill means we will fulfill our commitment to the American workers and firms that will benefit from this bill—a commitment that means $8.8 billion in new sales and an increase of 121,000 jobs over the course of the next 5 years in the U.S. textile industry alone.

As I have emphasized again and again in this debate, this is not a bill that is good just for our neighbors in the Caribbean and Central America or our partners in Africa. This is a bill that is good for our workers here at home as well. It is a ''win-win'' situation economically for American workers and our friends abroad.

I look forward to working with my colleagues over these coming hours to fashion a still stronger bill that would further those goals.

Let me emphasize once more the strong bipartisan support reflected in the vote just taken. The motion for cloture carried by a vote of 74–23. I urge my colleagues to move as expeditiously as we can because time is limited. As we all know, the Congress is coming to the end of the current session and we want to make sure everybody has the opportunity to bring forward their amendments. It is important we do so in a fashion to expeditiously conclude action on this important piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish to join most emphatically with my revered chairman in congratulating the Senate today, in thanking the majority and minority leaders. We have risen to a moment which was ominously in doubt.

Last week, as the week progressed, two things took place: One, on the Senate floor, as we now have established, we had 74 votes just to proceed with the bill—we will have more when this is done. Even so, we found ourselves in a procedural tangle not unknown to the body which was thwarting the will of an emphatic majority—and not just a majority for this legislation but a majority for a tradition of openness in trade that began 65 years ago with the Reciprocal Trade Agreements Act of 1934 at the depths of the Depression, the aftermath of the Smoot-Hawley legislation, with our system of government very much under challenge. That challenge would grow more fierce and would end in the great World War.

We were then, even so, confident enough of the promise of trade that we could go forward in this matter. We have been going forward for 60 years. However, 5 years ago we stopped. The President did obtain the approval of the Congress for the World Trade Organization. I shouldn't put it that the President ''obtained'' the approval of the Congress; Congress approved what Congress had sent our negotiators to obtain. There was a little side ripple there. An international trade organization was to have been one of the main institutions of the Bretton Woods system created in 1944. The International Bank for Reconstruction and Development—we call it the World Bank—the International Monetary Fund were created; the International Trade Organization didn't happen.

Finally, we caught up with ourselves and we created the World Trade Organization which I believe now has 134 members with 30 observers currently applying for membership. I said there were two ominous, even menacing moments. The second was that there was almost no attention paid in the press and media to this week-long frustrating, seemingly unavailing effort. We have been on this a week and we got nowhere. No one noticed. It is as if no one cared.

We woke up. Yesterday, the Washington Post in a lead editorial on this subject noted neither the administration nor the Congress had done anything they needed to do, and that at the end of this month the World Trade Organization will meet in Seattle. Our Ambassador, our Trade Representative, Ambassador Barshefsky, will open the meeting. Our President will be there, along with heads of state. We will be talking about the next round of global trade negotiations. They can take 9, 10 years. They are fundamentally important.

But our President will not have the authority to enter these negotiations—or rather to send the resulting agreements to the Congress for expedited consideration. If he were to have had the sub-Saharan African legislation fail and the Caribbean initiative of President Reagan fail; if we were to have, in effect, allowed the Trade Expansion Act of 1962, President Kennedy's measure that led to the Kennedy Round, like the Uruguay Round, expire and say to the 200,000 American families who are displaced by trade, as others are, that we should let economic forces work their way and tell them, that's too bad; if we allowed the Generalized System of Preferences to expire and say, no matter, how would our representatives look? What would they say? What could they undertake? Very little.

It would be a moment in trade that would be shameful, after 65 years of bringing the world out of the depths of the Great Depression, now, in the longest economic expansion in the United States, the longest economic expansion in history.

For so many years we talked about ''the longest peacetime expansion.'' No, no, this expansion is greater even than that from World War II. This is what trade has brought us. Not just trade, but without trade expansion we could not have had this economic expansion. Now, at least, we can go to Seattle and say: Here are our bona fides. We are still players. We still want to go forward.

So, Mr. President, let the games begin. We have a long debate before us. It will be a bipartisan debate. The Senator from Delaware, the chairman of our committee, will be leading the debate. His deputy, if I may so deputize myself, will be at his side across the aisle. Let us now proceed, being of good heart and great expectations.

I yield the floor.

Mr. ROTH. Mr. President, I ask the distinguished Senator from New York if he could articulate the importance of the legislation before us.

Mr. MOYNIHAN. I certainly could attempt to do so. I would not risk overstatement. There would be a setting in which, having given the President negotiating authority for a new round of international trade talks, having arranged for Trade Adjustment Assistance to be continued as it has been for 37 years, we could say: The particular matters before us will be part of the trade negotiations—and so forth. We could say we will get to it next year.

But we don't have that negotiating authority. The President goes to Seattle emptyhanded. The only thing he can bring with him is the trade legislation we have before us—which we still have to take to the House. But this is all the United States can show the world, the world which has been following us for all these years.

So I hope, at a very minimum, the sense of tradition—even, if I may say, of honor—will drive us forward in this matter.

Mr. ROTH. I would like to refer to fast track. Like my colleague, I am very unhappy that this authority has not been extended this President.

Mr. MOYNIHAN. And, sir, that this President did not ask for it when he could get it.

Mr. ROTH. That is correct. That is correct.

I also point out our committee in the last 2 years reported this legislation out because there is strong bipartisan support for fast track to be granted to the President, this President, by both Republicans and Democrats.

Mr. MOYNIHAN. Sure.

Mr. ROTH. Unfortunately, there has not been strong leadership from the White House on this matter. It seems to me it is a matter of grave concern. But since that has not happened, I do agree with what my colleague has just said, that it is important we act on this legislation so it becomes clear to our friends and neighbors around the world that we continue to plan to provide leadership in this most important area of trade.

Mr. MOYNIHAN. Yes, sir, and that it becomes clear to our friends around the world, as you say, and our friends downtown—give them heart; give them something to show.

Mr. ROTH. Absolutely. I applaud and congratulate the Senator from New York for his leadership, not only during the current session but down through the years in this most important trade policy. We look forward to bringing home the bacon in the next 30 hours on this important piece of legislation.

Mr. MOYNIHAN. I thank the chairman.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from South Carolina.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished managers of the bill offered the $8 billion figure in sales and some 121,000 jobs. The truth is, we know from the Labor Department statistics that we have lost 420,000 textile jobs nationwide and some 31,200 textile jobs in South Carolina alone. They said NAFTA was going to create 200,000 jobs. They claim today it is 121,000. In Mexico itself, it was going to create 200,000 jobs. We know textiles alone lost 420,000, and it is undisputed that 31,200 jobs were lost in the State of South Carolina.

I ask unanimous consent to print two articles with respect to the economy and how it has worked in Mexico, one from the Wall Street Journal and the other from the American Chamber of Commerce in Mexico.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 27, 1999]

A DECADE OF CHANGE

(By Jonathan Friedland)

THE HAVE-NOTS: THE FREE-MARKET REVOLUTION PROMISED SO MUCH; TO MANY IN LATIN AMERICA, IT HAS DELIVERED SO LITTLE

Texcalitla, Mexico.—Liberalization, privatization, globalization. Mary Garcia may not be aware of them in so many words, but she has felt their impact from behind the two-frame stove of her cinder-block cafe, the Avenida Nacional.

Perched alongside the highway that was once the main road between Mexico City and the resort city of Acapulco, Mrs. Garcia's restaurant used to serve dozens of plates of rabbit stew to travelers daily. But early this decade, amid a severe downsizing of the Mexican state, the government let private contractors build a swift toll road between the two cities that bypassed the Avenida Nacional.

Mrs. Garcia has far fewer clients nowadays. Not only that, but the taxes she pays have gone up, in part because of the new road. The Highway of the Sun, as it's called, has been such a financial disaster that the government bought it back two years ago from the companies that built it. The same thing happened with a dozen banks, a pair of airlines and 25 other highway projects. After botched privatizations, they are back in the hands of the government, and taxpayers are facing a bill that may total as much as $90 billion.

''I am all for progress,'' Mrs. Garcia says wistfully, straightening up the place settings in her empty restaurant. ''But this kind of progress is killing us.''

From Texcalitla, here in Mexico's rural Guerrero state, to Tierra del Fuego at the southern tip of South America, there are a lot of people who feel the same way. For many Latin Americans, the free-market revolution that has swept the region in the past decade hasn't delivered the kind of progress they were told it would—easier lives, better incomes and a more secure future. Instead, it has confirmed many of their worst fears about capitalism.

Since Chile embarked on its free-market experiment in the late 1970s, widespread domestic market liberalization, privatization of once-unwieldy state asset holdings and a removal of barriers to foreign competition have made Latin America a much healthier place in purely macroeconomic terms. Government finances are in better shape than ever. Foreign direct investment is up, and inflation rates have fallen. And Latin Americans have access to a wider variety of goods and services than ever before.

But there has also been a big downside to the move from closed to open economies. Buffeted by forces beyond their control—such as the woes of other emerging markets as far afield as Russia and Indonesia—Latin American economies have posted frustratingly inconsistent growth rates in recent years. Job creation has actually slowed while overall unemployment in the region has remained stable, according to Inter-American Development Bank statistics. That means that more Latin Americans work in the informal economy than a decade ago, and that income distribution, uneven to begin with, has generally grown more so.

In fact, from 1980 to 1996, the latest year for which hard data are available, the trend has been for an ever greater percentage of national income to end up in ever fewer hands in all Latin American countries except Costa Rica and Uruguay, says Elena Martinez, regional director of the United Nations Development Program. Unlike their bigger neighbors, Costa Rica and Uruguay have kept a lid on competition and have struggled to maintain their state-run social-welfare systems.

Elsewhere, in Argentina, Brazil, Mexico and other countries, the pattern has been this: A handful of entrepreneurs, often with close ties to their country's political elite, have gotten richer. The middle class, never large to begin with and traditionally propped up by plentiful government jobs, urban food subsidies and trade barriers that kept inefficient companies alive, has shrunk. And the poor, whose safety net, never strong, has been strained by demands for fiscal austerity from the international financiers these countries depend on, keep getting poorer.

''In the 1990s, Latin American policy makers have put their emphasis on overall performance, on making sure the macroeconomic indicators were lining up,'' says Gert Rosenthal, a Guatemalan economist. ''But there is a growing consensus that something is terribly wrong when you have this and 40% of your population is in worse shape than before.''

The negative balance of the free-market experiment for many Latin Americans has tipped the scales away from support for further reform. Leading presidential candidates in Argentina, Chile and Mexico—three countries with elections over the next year—are all emphasizing the need to put people before markets. ''There is a search for a kinder, gentler form of capitalism,'' says Lacey Gallagher, head of Latin American sovereign ratings at Standard & Poor's Co. in New York. ''It is sad, but the reform process in a lot of countries is getting stuck because political support for reforms has dwindled so much.''

No one thinks Latin America will return to the days of import substitution and uncontrollable deficit spending, or that social revolution is on the horizon. But observers like Ms. Gallagher worry that although they have embarked on the free-market path, many Latin American economies aren't yet flexible enough to adapt to change in the global economy. Nor can they deliver an improved standard of living to the majority of their citizens. ''The first-stage reforms, which most Latin American countries have already been through, worsen income distribution, make economic cycles more profound and raise unemployment,'' she says. ''The payoff comes with the second-stage reforms.''

But those reforms, which include strengthening tax collections, making taxation fairer and labor laws more flexible, and streamlining institutions like courts and schools, have run into public opposition mainly because of the financial and social costs associated with the first round of reforms. Politicians generally realize these are the steps they have to take, but in the fledgling democratic environment in which they operate, consensus building is a painfully slow process.

In Argentina, for instance, President Carlos Menem has tried for several years to scrap the country's antiquated labor laws, but he can't because still-powerful unions believe the old rules are the only remaining safeguard for their workers. Lately, Mr. Menem hasn't pushed the point because his Peronist party, built originally upon a base of fervent worker support, needs union backing to prevail in presidential elections scheduled for October.

Economists say the cost of the delay has been high. Argentina, which pegged its currency to the dollar earlier in the decade to quash triple-digit inflation, has entered a nasty recession because of a big currency devaluation by Brazil, its No. 1 trading partner. With its inflexible labor laws, Argentina can't reduce wages to remain competitive. The result: Output has fallen and unemployment has soared.

A similar though less pressing dilemma faces Mexican President Ernesto Zedillo. In March, he floated a plan to gradually privatize the country's electrical sector, arguing that the government doesn't have the resources to invest the $25 billion needed over the next few years to increase the power supply. While many Mexicans agree with the president's basic point—that state funds ought to be spent on things like health and education rather than power plants—few trust the private sector to do the job properly.

It isn't hard to see why. Mexico's privatization binge has been plagued by costly blunders that have many wondering whether state finances are truly better off now, and whether the Mexican economy is truly more competitive than before, as the government contends. ''It isn't obvious to most Mexicans that their lives have improved as a result of these programs,'' says Luis Rubio, a Mexico City development expert.

The toll roads provide a case in point. With the passage of the North American Free Trade Agreement on the horizon and an urgent need to upgrade Mexico's crumbling road infrastructure to handle a surge in trade, former President Carlos Salinas de Gortari embarked on a crash public-works program in which private construction companies built a network of pay-as-you-go highways. But in the government's rush to get the job done, unrealistic traffic and income projection's were made, local banks were muscled into coming up with the financing, and companies without the necessary management skills were signed up to do the work.

''Although it had a private-sector complexion, it was really an old-fashioned public-works program,'' says William F. Foote, a former banker who has studied Mexico's toll-road blitz. ''It was done without reference to the realities of the market.''

That quickly became clear. Projects were plagued by cost overruns, and once the roads opened for business, neither truckers nor travelers could afford the high tolls demanded.

Within a few years, the government stepped in to take over many of the roads, leaving the companies that built them to accept a more gradual return on their investment. Those companies are, in several cases, still waiting to be fully reimbursed and claim that their weak financial condition is mainly due to their toll-road commitments. Meanwhile, roads such as the Highway of the Sun remain glittering and desperately short on traffic.

The fact that the road hasn't delivered on its promise isn't lost on Graciela Martinez, an elderly woman sitting under a tree near one of its toll plazas. Mrs. Martinez, who sells iguanas for a living, stands up to show off her product each time a vehicle slows to pay the toll. There haven't been any sales today, she says solemnly, because city people don't appreciate a good lizard.

But, she jokes, the dearth of traffic does have an upside. While it isn't great for here pocketbook, she says,'' at least it's easy on my feet.''

[From the American Chamber of Commerce of Mexico—Business Mexico, April 1997]

WHAT'S WRONG WITH THIS PICTURE?: OPTIMISTIC INVESTORS OVERLOOK MEXICO'S CONSUMER SPENDING GAP

BY NICHOLAS WILSON

At first sight Mexico seems like an investor's dream: a country of 93 million people, number 13 on the world list of natural wealth per capita, recently opened virgin markets,

and a government that is rapidly forging trade agreements in the Americas and aboard. Mexico, however, is also home to grinding poverty, so just how big is its market? The reality, according to economists, is that only between 10 percent and 20 percent of the population are really considered consumers. The extreme unequal distribution of wealth has created a distorted market, the economy is hamstrung by a work force with a poor level of education, and a sizable chunk of the gross domestic product is devoted to exports rather than production for domestic consumption. Furthermore, worker's purchasing power, already low, was devastated by the December 1994 peso crash and the severe recession that followed. Even optimists do not expect wages in real terms to recover until the next century. 'They say there are more than 90 million consumers in Mexico, but less than 20 percent earn more than 5,000 pesos (US$625) per month. The rest of the population lives just above subsistence level,'' says Pedro Javier Gonzalez, economist at the Mexican Institute of Political Studies. the figures make grim reading: the National Statistics Institute (Instituto Nacional de Estadisticas, Geografia e Informatica, INEGI) and the Banco de Mexico estimate that nearly 68 million Mexicans live in poverty. About a million homes do not have electricity and potable water, and adult illiteracy is 13 percent. According to UNICEF's most recent report there are 9 million Mexican children living in extreme poverty (one third of Mexico's population is under 15 years old); 800,000 between the ages of 6 and 14 years working in various productive sectors; and 60,000 ''street kids,'' a number that is increasing by 7 percent annually. The United Nations says poverty is most extreme in the informal sectors of the world's economies. The World Bank estimates 42 percent of Mexico's economic population is employed in the informal sector; the Finance Secretariat put the figure at 50 percent during its recent clampdown on tax evaders. The informal economy includes street vendors as well as largely self-sufficient campesinos who ''effectively neither buy from nor sell to the rest of the economy,'' says Gonzalez. The formal sector, however, is not exactly made up of affluent consumers either. Sixty percent of the registered work force earns between one and two minimum salaries per day, according to a recent study by the Worker's University of Mexico (Universidad Obrera de Mexico). The minimum wage is currently worth about US$3.00 per day. ''Minimum wage guys don't buy imports,'' says one analyst who preferred to remain anonymous.

OVERLY OPTIMISTIC

Despite the poverty indicators, foreign investors often sound cheerful to the point of being almost blase about the economic and social statistics. ''NAFTA will connect the world's largest market (the U.S.) to the world's largest city (Mexico City) says David Dean, promoter of a superhighway to facilitate transport between the free trade agreement's member nations. Yet many of Mexico City's inhabitants don't even have access to drainage, electricity or basic education.

''Mexico has a teledensity of 6–8 telephone lines per one hundred people, compared to 60 per hundred in the U.S. There's a lot of potential in Mexico,'' says recently arrived Bill Ricke, Global One international telecommunications consortium president.

The potential is here, economists agree, but it is unlikely to be developed in the near future with most of the population living in abject poverty. Telefonos de Mexico (Telmex) last year disconnected more customers for not paying their bills than it connected. ''Nearly all of the (US$4 billion) long distance telecommunications market in Mexico is accounted for by businesses. Individuals only make international calls in extreme emergencies,'' says economist Patricia Nelson. In reality the market is only about the top 15 percent of earners and businesses, she says.

Export businesses account for nearly 25 percent of the gross domestic product (GDP), which in 1996 totaled US$326 billion. In 1980 export businesses only accounted for 10 percent of the GDP, says Gonzalez. At the same time, the domestic demand per capita has actually shrunk in the last 20 years, he says. Given the population's low purchasing power, production for the domestic market is minimal. Therefore, the proportion of GDP represented by the export sector is distorted, and is higher than in many developed countries, says ING Barings economist Sergio Martin.

The average salary in Mexico is only US$3,720 a year.

It now takes a worker 23 hours to earn enough to purchase the goods included in the ''basic basket,'' the price of which has shot up 913 percent since 1987, compared to 8.3 hours 10 years ago, according to a report from the National Autonomous University of Mexico (Universidad Nacional Autonoma de Mexico, UNAM).

SELECT FEW

Another distortion in Mexico's market is the eye-opening difference between the rich and poor. Writer Carlos Fuentes describes Mexico as a country where 25 Mexicans earn the same as 25 million Mexicans. In the last two years, the 15 wealthiest families' fortunes leapt from the US$16.4 billion to US$25.6 billion, which is equivalent to 9 percent of the GDP or 23.9 million annual minimum wages.

The result in economic terms is that ''there is a market for luxury Mercedes cars, yet little demand for reasonably priced shoes (relative to a country with Mexico's population),'' says Gonzalez. There are nearly 100 million Mexicans yet there are only 2 million credit cards, adds Martin. ''As some people have more than one it means that less than 2 percent of Mexicans have credit cards and some of them have limits of 1,000 or 2,000 pesos (US$125 or 250).''

Education, or the lack of it, has also played a role in the steady widening of the gap between rich and poor since Carlos Salinas took office in 1988. Between 1987 and 1993, urban workers with higher education saw their wages jump 100 percent, whereas poorly educated workers (50 percent of workers have only a primary school education) saw their wages climb only 10 percent.

The rising poverty is a continual thorn in the government's side. While its tough macroeconomic policies have drawn praises from the international financial community, the benefits have not trickled down to the poor. ''I don't see the government doing anything to address the wealth imbalance,'' Gonzalez says. Many think the government had better get started, however, if it wants to make its newly opened markets attractive to foreign investors. Moreover, there may be social and political consequences if only a handful of Mexicans continue to enjoy the fruit of the economic reforms. ''I think we're living on borrowed time,'' said U.S. Ambassador to Mexico James Jones at the end of last year. ''This generation of adults will probably survive on hope but I think over the next five to ten years if that isn't translated into benefits and real opportunities, you're going to have demagogues rise up who want to turn the clock back.''

Mr. HOLLINGS. Mr. President, the reason I included these articles is because my distinguished mentor, the senior Senator from New York, voted with me on NAFTA and that is against NAFTA. We had misgivings. Of course, the proof is in the Wall Street Journal and the American Chamber of Commerce articles about how they are making less down there 4 to 5 years since the enactment of NAFTA. We were told it was going to create a positive balance of trade. We had a $5 billion-plus balance of trade at the time of enactment. Now we have a $17 billion deficit in the balance of trade with Mexico since NAFTA.

We were told it was going to solve the immigration problem. It has worsened. We were told it was going to solve the drug problem. It has worsened. As I said before, there is no education in the second kick of a mule. We have been through this exercise about how we are all going to put our arms together and hug and love and help our neighbors. Fine with me if it really would work that way. It has not worked that way and is not about to work that way in sub-Sahara and the Caribbean. I will get into those items in just a few minutes.

With respect to the morning article—I try to get into the Wall Street Journal because a lot of my crowd in South Carolina reads it. They have me as the old isolationist: Hollings: ''Info revolution escapes him.''

Really? I know a good bit more about the information revolution than the Wall Street Journal does. I helped bring a good bit of it to South Carolina, in fact, with my technical training for skills. I was in Dublin, Ireland, and walked into the most modern microprocessing plants of Intel outside of Dublin. My friend, Frank McKay, was there. He said: Governor, I want to show you your technical training program. We sent two teams to Midlands Tech in Columbia, SC, and we reproduced what was there, and that is how I got it up and going and operating and in the black.

I told this to Andy Grove when he came by, and he thanked me again. I know a little bit about the information revolution. I am all for it. My problem is, on the one hand, it does not create the jobs they all advertise.

The Wall Street Journal ran an article about Wal-Mart and General Motors. Wal-Mart exceeded the number of employees of General Motors for the first time.

I ask unanimous consent this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 28, 1997]

LABOR: THE CHANGING LOT OF THE HOURLY WORKER

For decades, the U.S. has been evolving from a manufacturing economy to a service economy. But Labor Day 1997 marks a milestone: Earlier this year. Wal-Mart Stores Inc., the discount retailer, passed General Motors Corp. as the nation's largest private employer.

The shift is more than symbolic. Union jobs with lush pay and benefits, like those

held by GM assembly-line worker Tim Philbriek, are disappearing. In their place are nonunion jobs like that of Nancy Handley, who works in the men's department at a Missouri Wal-Mart.

Both punch a time clock, and share a stake in their employers' success. The Wal-Mart workday is less physically taxing than GM's, but the hours are longer and the pay barely supports even a thrifty family. Still, Wal-Mart offers a measure of responsibility and path of advancement to hourly workers, thousands of whom are promoted to management each year.

Mr. HOLLINGS. Mr. President, I want the Wall Street Journal to read its own articles.

The leading line:

For decades, the U.S. has been evolving from a manufacturing economy to a service economy. But Labor Day 1997 marks a milestone: Earlier this year, Wal-Mart Stores, Inc., the discount retailer, passed General Motors Corporation as the nation's largest private employer.

General Motors' average hourly wage is about $19 an hour; including benefits, it is $44 an hour. Whereas at Wal-Mart stores, the average hourly wage is $7.50; including benefits, $10. In manufacturing, the salary is four times that in the service economy. That is why they are all talking about this wonderful economic boom that has to do with the service economy, so much so that the labor unions I see have buddied up with the American Chamber of Commerce. The American Chamber of Commerce has gone international. They are not representing Main Street America.

On yesterday, Monday, November 1, ''Corporate, Labor Leaders Both Trumpet Backing for Clinton's Trade-Talk Plan.'' I ask unanimous consent this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 1, 1999]

CORPORATE, LABOR LEADERS BOTH TRUMPET BACKING FOR CLINTON'S TRADE-TALK PLAN

(By Helene Cooper)

WASHINGTON.—Depending on how you look at it, the joint letter from corporate and union leaders supporting the Clinton administration's agenda for global trade talks, was either a huge win for big business or for labor unions.

The way corporate America tells it, the letter was a victory for pro-trade American companies because John Sweeney, head of the AFL–CIO, signed it. ''How are the labor unions going to protest in Seattle [at the upcoming World Trade Organization's big powwow] if Mr. Sweeney is saying labor supports the trade agenda?'' asked Frank Coleman, spokesman for the U.S. Chambers of Commerce.

Indeed, Mr. Sweeney's decision to back the Clinton trade agenda rankled the more militant unions, such as the Teamsters and the United Steelworkers of America.

But AFL–CIO leaders said the letter shows Mr. Sweeney at his savviest. For one thing, the AFL–CIO is backing Vice-President Al Gore's presidential campaign and wants to minimize political damage to his election chances by hammering him on trade.

More significantly, several big company chieftains, including John E. Pepper, chairman of Procter & Gamble Co., Maurice ''Hank'' Greenberg, head of American International Group Inc., and Robert Shapiro, head of Monsanto Co., also signed the letter.

The letter calls for a working group to be established within the WTO to study core labor standards and trade, and marks the first time many of America's biggest companies have agreed to support U.S. moves linking trade liberalization with labor standards.

''The U.S. government must further ensure that any agreements enable the United States to maintain its own high standards for the environment, labor, health and safety,'' the Oct. 25 letter said.

For years, Republican lawmakers, backed by big business, have resisted linking trade expansion with labor and environmental issues. While last week's letter makes no mention of using trade sanctions against countries with poor labor standards, Thea Lee, the AFL–CIO's trade policy director, said that is labor's ultimate goal. ''What we want is the ability to use trade rules to protect worker rights,'' Ms. Lee said.

While AFL–CIO leaders still plan to show up in force in Seattle this month to protest WTO policies they see as antilabor, they also said it's important to get a seat at the table so that union views can be represented.

Whether the Clinton administration will get the rest of the WTO to sign on to its labor agenda for the Seattle meeting remains to be seen. Developing countries, in particular, have fought linking trade and labor, and many of these countries see the establishment of a working group as the beginning of a move to do just that. These countries are bound to fight the issue in Seattle.

America's labor unions are hardly united on the matter. Teamsters spokesman Bret Caldwell said he was ''shocked'' and ''disappointed'' in Mr. Sweeney. ''We in no way agree that the administration's trade policies are good for working men and women,'' he said. ''The Teamsters will play a very active role in demonstrations in Seattle.''

Mr. HOLLINGS. Mr. President, ''Mr. Sweeney's decision to back the Clinton trade agenda rankled the more militant unions, such as the Teamsters, and the United Steelworkers of America.'' Those are the manufacturing jobs. Just as the fabric boys divorced themselves from apparel and now can toot for this kind of legislation, the head of the service economy, John Sweeney, has forgotten about manufacturing jobs, and he is going along. That is why we got this overwhelmingly bipartisan majority.

But back to the point, this is what disturbs this particular Senator, that we are hollowing out the manufacturing strength, the industrial backbone of the United States of America.

The so-called service economy or information technology, or information society, strikingly—why don't they read the November 5, 1999, edition of the London Economist that has just come out? On page 87, there is an article entitled ''The New Economy, E-Exaggeration: The Digital Economy is Much Smaller Than You Think.'' I ask unanimous consent to have that article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the London Economist, Nov. 5, 1999]

The New Economy E-xaggeration: The Digital Economy is Much Smaller Than You Think

Newspapers and magazines are packed with stories about the digital economy, the information-technology (IT) revolution and the Internet age. That their pages are filled with advertising from IT firms presumably has nothing to do with it. Such firms account for a quarter of the total value of the S&P 500, and this week Dow Jones announced that Microsoft, Intel and SBC Communications will be included in its industrial average from November 1st. Not before time, many say, for high-technology businesses now account for a huge chunk of the economy. Actually, they don't.

New figures published on October 28th by America's Department of Commerce appear to support the view that IT is very important to the American economy. The department now counts all business spending on software as investment (previously, it was a cost). This has both increased the apparent size of IT investment and boosted America's rate of growth in recent years.

But measuring the size of the ''new'' economy is a statistical minefield. The most generous estimate comes from the OECD, which tracks the ''knowledge-based economy''. It estimates that this accounts for 51% of total business output in the developed economies—up from 45% in 1985. But this definition, which tries to capture all industries that are relatively intensive in their inputs of technology and human capital, is implausibly wide. As well as computers and telecoms, it also includes cars, chemicals, health, education, and so forth. It would be a stretch to call many of these businesses ''new''.

A study published in June by the Department of Commerce estimates that the digital economy—the hardware and software of the computer and telecoms industries—amounts to 8% of America's GDP this year. If that sounds rather disappointing, then a second finding—that IT has accounted for 35% of total real GDP growth since 1994—should keep e-fanatics happy.

Perhaps unwisely. A new analysis by Richard Sherlund and Ed McKelvey of Goldman Sachs argues that even this definition of ''technology'' is too wide. They argue that since such things as basic telecoms services, television, radio and consumer electronics have been around for ages, they should be excluded. As a result, they estimate the computing and communications-technology sector at a more modest 5% of GDP—up from 2.8% in 1990. This would make it bigger than the car industry, but smaller than health care or finance. In most other economies, the share is lower; for the world as a whole, therefore, the technology sector might be only 3–4% of GDP.

But what, you might ask, about the Internet? Goldman Sachs's estimate includes Internet service providers, such as America Online, and the technology and software used by online retailers, such as Amazon.com. It does not, however, include transactions over the Internet. Should it? E-business is tiny at present, but Forrester Research, an Internet consultancy estimates that this will increase to more than $1.5 trillion in America by 2003. Internet bulls calculate that this would be equivalent to about 13% of GDP. Yet it is misleading to take the total value of such goods and services, whose production owes nothing to the Internet. The value added of Internet sales—i.e., its contribution to GDP—would be much less, probably little more than 1% of GDP.

This is not to deny that the Internet is changing the way that many firms do business—by, for example, enabling them to slim inventories—but, in the near future, as a proportion of GDP, it is likely to remain small.

A LUDDITE'S LAMENT

If measuring the size of the technology sector is hard, calculating its contribution to

real economic growth is trickier still, because the prices of IT goods and services (adjusted for quality) have fallen sharply relative to the prices of other goods and services. For example, official figures show that America's spending on IT has risen by 14% a year in nominal terms since 1992, but by more than 40% a year in real terms. This figure is so high partly because it is extremely sensitive to assumptions about the rate at which the price and quality of IT is changing.

The Commerce Department calculates that the technology sector has contributed 35% to overall economic growth over the past four years. But because such figures are based on spending in real terms, the Goldman Sachs study reckons they are misleading. In nominal terms, IT has accounted for a more modest 10% of GDP growth in the past four years.

Another popularly quoted figure is that business spending on IT has risen from 10% of firms' total capital-equipment investment in 1980 to 60% today. But again, this is based on constant-dollar figures, and so it hugely exaggerates the true increase. In terms of current dollars (and before the latest revisions), Goldman Sachs calcuate that business investment in computers accounts for 35% of total capital spending, not 60%. And even this exaggerates the importance of IT, because much of the money goes to replace equipment which becomes obsolete ever more quickly. The share of IT in additional ''net'' investment is much smaller. Computers still account for only 2% of America's total net capital stock.

For years economists have been seeking in vain for evidence that computers have dramatically raised productivity. One explanation for the failure of productivity to surge may be that official statistics are understating its growth. Another is that much investment in IT has been wasted: hours spent checking e-mail, surfing the Net or playing games reduce, not increase, productivity. A third may simply be that IT is still too small to make a difference: for the moment, appropriately enough, you can count the digital economy on the fingers of one hand.

That is changing, and firms are learning. And note this: if you add in all computer software and telecoms (on the widest definition), the share of IT in the capital stock rises to 10–12%. As it happens, this is almost the same as railways at the peak of America's railway age in the late 19th century. Railways boosted productivity and changed the face of Victorian commerce. Hype is hype—but the new economy may yet happen anyway.

Mr. HOLLINGS. I quote from the article:

. . . they estimate the computing and communications-technology sector at a more modest 5% of the GDP —up from 2.8% in 1990. . . .

The value added of Internet sales—i.e., its contribution to the gross domestic product—would be much less, probably little more than 1% of the gross domestic product.

Mr. President, another popularly quoted figure is that business spending on information technology has risen from 10 percent of a firm's total capital, equipment and investment in 1980 to 60 percent today. Again, this is based on constant dollar figures. And it hugely exaggerates the true increase.

In terms of current dollars . . . Goldman Sachs calculate that business investments in computers accounts for 35% of total capital spending, not 60%. And even this exaggerates the importance of [information technology] because much of the money goes to replace equipment which becomes obsolete ever more quickly. The share of [information technology] in additional ''net'' investment is much smaller. Computers still account for only 2% of America's total net capital stock.

I want to dwell on this for a moment, for the main and simple reason that this really is what is at issue and why the Senator from South Carolina takes the floor. It is just not textiles. Textiles is on its way out.

And by another headline I saw in the New York Times, on the right-hand upper column of the front page this morning, President Clinton is getting together with the People's Republic of China to admit them to the World Trade Organization. You can pass the CBI, the sub-Sahara, the NAFTA there, there, and there yonder, and pull it all around, but once that is done, once China gets into the World Trade Organization and starts with its transshipments and its appeals, it controls the general assembly.

We had a resolution about 4 years ago to have hearings on human rights within the People's Republic of China. That crowd went back down into Africa and Australia and around and changed the vote, and they never had the hearing.

So I am telling you, we really are going to be a minority in the World Trade Organization. They can change around your environmental protections, your labor protections, your high standard of living, and everything else. And the CBI and sub-Sahara, and everything else that we think we are doing something to help, we are going to China, I can tell you that right now with the front page article about President Clinton. So we know where we are headed with respect to that.

But my friend, Eamonn Fingleton, has written a book, ''In Praise of Hard Industries.'' Obviously, I can't include the book in the RECORD at this particular time. But I refer to its comparisons where the Wall Street Journal time and time again has come out again and again with certain misstatements.

In 1996, when everyone from the Wall Street Journal to the Christian Science Monitor was dismissing the Japanese economy as sluggish or stagnant or even mired in a deep slump, in fact Japan's growth rate that year of 3.9 percent was the best of any major economy and was significantly superior to the rate of 2.8 percent recorded in the booming United States. . . .

Although experts like the Economist's editor in chief . . . predicted a decade ago that Japan's savings rate would plunge in the 1990s, the truth is that at last count Japan was producing $708 billion of new savings a year—or nearly 60 percent more than America's total of $443 billion . . . Japan has now decisively surpassed the United States as the world's main source of capital . . . Japan's net external assets jumped from $294 billion to $891 billion in the first seven years of the 1990s. By contrast, America's net external liabilities ballooned from $71 billion to $831 billion.

With these things going on, you begin to worry where you are headed with the particular trade bill.

Again, instead of doubling the volume of steel imports since 1983, the United States remains by far the largest importer.

So we are importing the steel. We are not having a savings rate. According to the Financial Times article that was printed in the RECORD the other day:

Fears of a slide in the U.S. dollar has haunted global currency markets for several months now. The dollar was granted a reprieve last week following better than expected August trade figures. But many observers believe it is only a matter of time before the dollar succumbs to mounting trade imbalances.

Quoting from the book I previously mentioned:

In the 1960s——

Since the distinguished Senator from New York went back 65 years—

In the 1960s President John F. Kennedy felt so strongly about this that he ranked dollar devaluation alongside a nuclear war as the two things he feared most.

There you go. Here we have it. We have a whole book written on it. Why, yes, it provides jobs. The information technology society or globalization, as they want to call it, the engine of our great economic recovery in the United States, our wonderful world leadership, it provides jobs for the best, the top 5 percent of the population. You have to be highly intelligent and everything else; like I have mentioned the 22,000 employees at Microsoft. All 22,000 are millionaires. More power to them. But that does not give you any exports, that does not give you any growth. That does not give you any strength of manufacturing in the industrial economy.

That is where we are hollowing it out. That is why we cannot afford it. I would love to help the Caribbean Basin. I would love to help the sub-Sahara. But time and again, we have given over and over and over again with respect to—I remember back in the Philippines we had given there. We had other particular initiatives whereby we always sacrificed at the textile desk.

I do not have it with me right now, but I have it down where we have given to Turkey. We gave to Egypt in Desert Storm. We have just eliminated, in the Multifiber Arrangement, over a 10-year period—now we are in the 5th year—all textile tariffs and everything else of that kind. So we do not have any protectionism about which to really talk.

We have important jobs. The textile jobs, compared to those retail jobs—the average textile wage is $11 an hour. With benefits, it increases that. Those are good jobs that we are trying to hold onto—the jobs of middle America, which is the strength of the democratic society.

Let me go right back to the particular editorial. This is how silly they can get. I will quote from the editorial. This editorial is from the Wall Street Journal. So I ask unanimous consent to have printed in the RECORD the editorial of this morning from the Wall Street Journal. The title of the editorial is ''The Old Isolationists.''

There being no objection, the editorial was ordered to be printed in the Record, as follows:

THE OLD ISOLATIONISTS

We've got the ideal subject for President Clinton's next speech on the ''new isolationism'' in Congress: Senate Democrats. They've been abetting a filibuster that may kill the Africa and Caribbean free-trade bill that Mr. Clinton at least claims he still wants.

No doubt they think they can get away with this because the media have barely noticed. Jesse Helms gives affluent, powerful Carol Moseley-Braun a hard time for an ambassadorship, and it becomes page one race-baiting mews. But the President's own party stonewalls a trade bill that would help millions of Africans escape their desperate poverty, and the story lands back among the real estate ads.

The bill has everything Dan Rather and other good media liberals claim to love. It's bipartisan, with support ranging from New York liberal Charlie Rangel to Texas conservative Phil Gramm. It'd help Africa not with handouts, but by reducing U.S. tariffs and quotas so these countries can share in the wealth of the global economy. And it repudiates Pat Buchanan-style trade protectionism.

It's also a helluva good political story. Fronting for the textile lobby, Ol' Fritz Hollings of South Carolina has been leading a filibuster like he just walked out of the 19th century. His hilarious rants cite as protectionist authorities both Pat Buchanan and left-wing economist Paul Krugman.

''And so Buchanan comes out, and was the best voice we had in a national sense. I have been talking trade while that boy was in GoZANga. Is that the name of tat high school around her, GoZANga?'' Ol' Fritz was yelling on the Senate floor last week, referring to Gonzaga High School.

''We are in trouble,'' the Senator from Milliken & Co. said later. ''This boom they are talking about in the stock market is the information society; it doesn't create the jobs.''

Self-parody aside, his strategy is obvious: run out the Senate clock. That's why, after more than a week of debate, GOP leader Trent Lott wants to get on with the vote and other Senate business. Enter Senate Democratic leader Tom Daschle, who says he's for the bill, but spent last week aiding Mr. Hollings by rallying fellow Democrats to support Fritz's filibuster.

Mr. Daschle's gripe was that Mr. Lott hadn't allowed a wish-list of protectionist amendments: Pennsylvania's steel front-man Rick Santorum on ''anti-dumping negotiations,'' Iowa protectionist Tom Harkin on child labor, Michigan's Carl Levin (a wholly owned subsidiary of the United Auto Workers) on ''worker rights,'' among others. None of this has anything to do with Africa trade.

The Senate is supposed to be full of statesmen. But on this subject the House has been more worldly. When protectionists tried a procedural ruse to kill Africa trade in the House, Mr. Rangel gathered the names of 79 Democrats who would vote for a GOP rule to limit debate. Mr. Lott has 48 or so Republicans in favor of the bill in the Senate, but the White House hasn't yet been able to get even a dozen Democrats for the 60 votes necessary to shut off debate. Democratic Party to Africa: Get lost.

These columns have often saluted Mr. Clinton's achievements on trade policy, notably Nafta and Gatt. But it's been downhill since then. The President hasn't pushed a trade bill through Congress in five years, mainly because of Democratic opposition. He's also taken to soft-selling fast-track negotiating power lest it hurt Vice President Gore with Big Labor. Rest assured this flagging enthusiasm for free trade has been noted in Democratic circles.

Later this month Mr. Clinton traveles to an international trade meeting in Seattle, supposedly to rally the world back to the free-trade flag. But if he can't deliver through Congress something as small as lower tariffs for Africa, Mr. Clinton might as well stay home.

New York Democrat Pat Moynihan made the point with his usual delicate bluntless on the Senate floor last week. ''The chairman (Republican Bill Roth) and I were planning to spend a few days in Seattle just meeting with people. We were not going to speak. Dare we go? I suppose Ambassador Barshefsky, is required to go,'' he said of the predicament the U.S. trade rep would be in if the Africa bill failed. ''I don't want to show my face.''

Late yesterday Mr. Daschle finally agreed to oppose Mr. Hollings, but only after he got Mr. Lott to guarantee him votes later on such domestic political and non-trade matters as the minimum wage. This shows where his priorities lie. When the final Africa trade bill votes are toted up, we'll also see who the real isolationists are.

Mr. HOLLINGS. Mr. DASCHLE is right. Mr. LOTT had not allowed a wish list of protectionist amendments. You see, Mr. LOTT had given fast track to this particular bill, until this morning, he said yesterday afternoon, but that was without notice. I went back to get some amendments. When I was getting those amendments at 5:30, they closed this Senate Chamber down. They didn't want amendments. Now he says you can get amendments. Here is what the Wall Street Journal thinks:

Pennsylvania's steel front-man Rick Santorum on ''antidumping negotiations,'' Iowa protectionist Tom Harkin on child labor, Michigan's Carl Levin (a wholly owned subsidiary of the United Auto Workers) on ''worker rights,'' among others. None of this has anything to do with Africa trade.

It doesn't? Child labor doesn't have anything to do with Africa trade, with Caribbean Basin Initiative trade? It doesn't? Wait until the Senator from Iowa comes out here and presents his amendment. That is how arrogant they have gotten. They splash a bunch of things people would not understand. It has everything to do with it. In fact, those are the principal amendments the Senator from South Carolina has. If the Senator from Delaware would agree to them, we could move on with this bill.

Specifically, in NAFTA we had the labor side agreements. They are not included in the CBI/sub-Sahara. In NAFTA, we had the environmental side agreements. Not in CBI/sub-Sahara. In the Mexican NAFTA, we had reciprocity. Not in CBI, not in sub-Sahara. In fact, when the Senator from New York jumped back 65 years, to 1934, I didn't hear him enunciate clearly reciprocal trade agreements of Cordell Hull, reciprocity. They had hard, good businessmen. Trade was trade, not a moral thing of foreign aid. That is our problem today. Too many in the political world think about trade as aid, another Marshall Plan. And the Marshall Plan has worked. But there is a limit to what you can give away.

I have time and again said that two-thirds of the clothing I am looking at is imported. One-third of all consumption in the United States is imported right now. If this train continues, it will be over half within the next 5 years. That is the hollowing out. If we are going to follow the London economists and the Brits who went from the production of goods to the providing of services—a service economy—we are going to have minimal growth. They got a British Army, but it is not as big as our Marine Corps. But we are going to lose influence in the World Trade Organization, in GATT, treaties in the Mideast and everywhere else, because money talks. We don't have those things going.

Now, Mr. President, reciprocal trade. I have an amendment on reciprocity, one on labor rights, and I have one with respect to the matter of the environment. It was all included. Let me just note, this is with tremendous interest to this particular Senator because I have just picked up this week's Time magazine. What we really have, in essence, is the campaign finance bill of 1999. They say they are not going to pass it, but this is the campaign finance bill of 1999.

In the middle, on pages 38 and 39, is an open-page Buyers Guide To Congress. Down here listed is the Caribbean tariff relief, a bill to let the Caribbean and Central American countries export apparel to the United States duty and quota free. Then you can go down to the contributions. The clothing firms want access to cheap-tax-advantage offshore production both Clinton and Republicans favor as a free trade measure.

They have in here—yes, the manufacturing and retail side is Sara Lee Corporation, Gap, the ATMI, and everything on the one side, and the AFL–CIO anti-sweat-shop groups. We have seen where that sort of split is. They are going along now with service labor leader John Sweeney and not with the manufacturing jobs in America.

Then we go to last week's edition, and we have the fruit of its labor. We see that, in addition to Sara Lee, we have Bill Farley and the Fruit of the Loom group. It is just embarrassing to me when you take Farley, who already moves 17,000 jobs out of Kentucky and some 7,000 from Louisiana, and then he gets a $50 million bonus when this bill passes. They are talking about how we are going to help working Americans. Then, all we have to do is go back to this week's London Economist again, in the very first part of the magazine section. We can put that in the RECORD.

I ask unanimous consent that the article entitled ''Politics and Silicon Valley'' be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Economist, Oct. 30, 1999]

POLITICS AND SILICON VALLEY

The rise of America's high-tech industry is not just a windfall for presidential hopefuls. It could also be a godsend for the liberal political tradition.

Until recently, computer geeks hardly noticed politics. Washington was ''the ultimate big company''. Policy wonks and political theorists—let alone the poor saps sitting in Congress—''just didn't get it''. And the policy establishment, doers and thinkers alike, was only too happy to return the compliment. In the last presidential election campaign, references to a high-tech future were vague and perfunctory, and Silicon Valley or Seattle were not particular ports of call. Washington, DC and the geeks existed in different worlds.

How things have changed. According to the Centre for Responsive Politics, a Washington watchdog group, by the end of June this year contributions from the computer industry were already three times those given to Bill Clinton and Bob Dole combined during the 1996 campaign. Of the $843,000 in direct industry contributions, over one-third went to George W. Bush, the Republican front-runner, with the two Democrats—Vice-President Al Gore and Bill Bradley—both netting about half of the Texas governor's total. These figures tell only part of the story, however. They do not include contributions from telecommunications and biotech companies, nor the millions of dollars the candidates have received in fund-raisers organised by computer executives and venture capitalists: entrepreneurs who helped fuel the high-tech boom, and are now helping pave the way to the White House.

Mr. Bush has courted the computer chiefs of Texas since before he became governor, in 1995. Heading the committee of computer luminaries advising him is Michael Dell, the Godfather of Austin's high-tech revolution, who is actively recruiting other computer executives into the Bush camp. Among the other members of the committee are James Barksdale, founder of Netscape, and John Chambers, president and CEO of Cisco Systems. But if Mr. Bush has Texas sewn up, other candidates have been prospecting elsewhere. In Colorado, which now has the second-highest concentration of high-tech jobs in the country, the state's prosperous telecom industry has been donating generously to both Senator John McCain and Mr. Gore. Trips to the Pacific north-west have been especially lucrative for Mr. Bradley and Mr. McCain, with Microsoft giving both candidates their largest computer-industry donations to date. Nor are the contributions only for the men at the top: the computer industry gave $8m to congressional campaigns in 1998, more than twice what it gave in 1994.

This money is all the sweeter for coming with few strings attached. The computer industry has yet to develop a coherent lobbying strategy, in which campaign donations are implicitly exchanged for influence over the political process. This is partly because the ''computer industry'' is really just a collection of assorted (and often competing) interests. As one industry analyst puts it, ''Just as there is no 'Asia' to Asians, there is no 'technology community' to technology companies.'' The interest of hardware companies are not necessarily those of software or e-commerce companies, and therefore a focused, industry-wide lobbying effort has been difficult to co-ordinate.

Slowly, this is changing, as high-tech executives finally learn the rules of political gamesmanship. Eric Benhamou, boss of 3Com, dates the politicisation of Silicon Valley to 1996, when California's trial lawyers sponsored a ballot measure that would have exposed high-tech companies to a barrage of litigation. Since then the Valley has woken up to the fact that it helps to have friends in Washington. The government has the power to turn off one of the Valley's most important resources: the supply of foreign brains. The Microsoft antitrust case may even prove that it has the power to restructure the entire computer industry. In short, the two sides simple have to talk to each other.

The Technology Network (TechNet), a political action group founded two years ago in Silicon Valley, has just set up a second office in Austin, and plans to open more chapters in the future—an attempt to influence policy at both state and local level. Companies in Washington, DC—home of America Online, America's biggest Internet service provider, and a city where the computer industry has just taken over from government as the biggest local employer—have also started their own lobbying group, CapNet.

According to Steve Papermaster, an Austin entrepreneur who heads TechNet Texas, there is a greater sense of urgency within the technology industry to have more of a say in politics. Like it or not, high-tech businesses have to work in a world of taxes, regulation, lawsuits and legislation; they need politicians just as much as politicians need them. If not more: for political contributions from the high-tech hives are still well below those that come in from such old-fashioned sectors as banking or even agriculture. There is a lot of catching-up to do.

THE GEEKS AND THE PARTIES

The Republican and Democratic candidates who are now trawling the high-tech industry, hands out, hope that this new political awareness has a partisan tinge. Republicans seem to have more grounds for optimism. After years when it looked as if computers favoured big organisations over small ones, and companies such as IBM appeared to be breeding grounds for conformism, the high-tech industry is arguably putting technology back on the side of individual liberty.

The average computer geek is convinced that the rise of clever machines and interlinked networks is inexorably shifting power from organisations to individuals, decentralising authority and accelerating innovation. Not only big companies and big unions, but also big government, seem to be on the point of disappearing. The sort of world the geeks are now conjuring up is a throwback to that of the Founding Fathers, so admired by Republican revolutionaries of the Gingrich mould, where (morally upright) yeomen farmers pursued happiness quite undisturbed by government.

Yet Democrats, too, think they have natural friends in the high-tech industry. There is a growing feeling in some quarters that—as in the case against Microsoft—government is not always a force for evil. Indeed, the public sector may hold the key to solving the social problems that now plague the high-tech industry: the shortage of educated labour, the over-strained transport system and the rapidly growing gap between rich and poor.

Some computer bosses are already appealing to politicians to get their act together. Andy Grove, the head of Intel, has told congressmen that the Internet is about to wipe out entire sections of the economy—and has warned them that, unless politicians start moving at ''Internet rather than Washington speed'', America may see a repeat of the social disaster that followed the mechanisation of agriculture. The high-tech industry is beginning to realise that it is doing nothing less than ''defining the economic structure of the world,'' says Eric Schmidt, the boss of Novell. And with that realisation comes, for some at least, a heavy sense of responsibility.

So which party will gain from the computer industry's belated entry into politics? It is hard to say. Mr. Schmidt points out that most computer folk are seriously disillusioned with the established parties: with the Democrats because they are too soft on vested interests, with the Republicans because of their ''Neanderthal'' social views. They think politics is not about ideology, but about fixing things, a tidy-minded approach that comes easily to scientists and engineers—and which carries echoes of the earlier, not-so-crazy Ross Perot.

It is often claimed that ''libertarian'' and ''progressive'' groupings are emerging in the computer industry. Yet these sound not dissimilar from the sort of shifts that are occurring anyway inside the Republican and Democratic Parties. Libertarians are represented by men like T.J. Rodgers, the boss of Cypress Semiconductor, and Scott McNealy, the head of Sun Microsystems, who argue that government is being rendered largely irrelevant by the power and speed of computers, and that the best way to deal with problems such as the ''digital divide'' may well be to extend the market, not invent new government programmes. This is ''compassionate conservatism''—perhaps operating even through beneficent computer companies themselves, offering training and education—of the sort that George W. Bush might recognize.

The progressives, who originally appeared under Bill Packard at Hewlett-Packard in the 1990s, have now fanned out to a growing number of institutions, from Joint Venture-Silicon Valley, a think-tank dedicated to tackling local problems, to TechNet, which now consists of no fewer than 140 high-tech bosses. They argue that there is still an important place for the government in a computer-driven economy—albeit a much smaller and more intelligent government than the one that currently resides in Washington. They love to point out that government funded the research that gave birth to the Internet, and one of their key complaints is that the federal government's R&D spending over the past 30 years has declined dramatically. Doesn't that sound just a bit like Al Gore?

BRAVE NEW POLITICS

It is tempting to conclude that the high-tech industry, flush with its new success, is claiming an impact on politics that goes far beyond the facts. Yet politics is a theoretical discipline, as well as a practical one; and here the collusion with high-tech is leading in fascinating directions. Computer-folk are beginning to look outside cyber-land for the answers to their questions about the future of society and government. At the same time, the intellectual and policy establishments are increasingly looking to the Valley, and other high-tech corners, for clues as to the shape of things to come.

The latest think-tank in Washington, DC, the New America Foundation, is largely funded by Silicon Valley money and is devoted to exploring the sort of political topics that will be at the heart of the digital age: digital democracy, the future of privacy and the digital divide. New America is in one of the few funky bits of Washington, Dupont Circle. It has scooped up a good proportion of the brightest American thinkers under 40 in its fellowship programme, including Michael Lind, Jonathan Chait and Gregory Rodriguez, and it is making sure that these bright young things interact with the cyber-elite at regular retreats and discussions.

So far, the person who has straddled the worlds of social theory and Silicon Valley most successfully is Manual Castells, a sociologist at the University of California. Mr. Castells enjoys a growing reputation as the

first significant philosopher of cyber-space—a big thinker in the European tradition who nevertheless knows the difference between a gigabit and a gigabyte. His immense three-volume study, ''The Information Age'' (Blackwell), echoes Max Weber in its ambition and less happily in its style (the ''spirit of informationalism'', for example). He writes about the way in which global networks of computers and people are reducing the power of nation states, destabilizing elites, transforming work and leisure and changing how people identify themselves.

Mr. Castells ruminates obscurely about ''the culture of real virtuality'', ''the space of flows'' and ''timeless time''. He also castigates the cyber-elite for sealing themselves off in information cocoons and leaving the poor behind. But this former Marxist and student activist cannot restrain his enthusiasm for the way that it is diffusing 1960s libertarianism ''through the material culture of our societies''. The result is that his sprawling boo, is now an important fashion accessory in Palo Alto cafés.

Will the views it enshrines be more than a passing trend? Very probably. The last time America underwent a fundamental economic change, a fundamental political realignment rapidly followed: the transition from an agrarian to an industrial society in the mid-19th century soon gave rise to mass political parties with their city bosses and umbilical ties to labour and capital. The cyber-elite not only suspects that changes of a similar magnitude are inevitable. It hopes to be able to help shape the new politics.

Today's sharpest intellectuals are fascinated by Silicon Valley for the same reason that thinkers early in this century were intrigued by Henry Ford: the smell of huge amounts of money made in new ways. But the Valley has more interest for them than Motown ever had, because it deals in the very stuff of intellectual life, information: and because this, more than any other place, is a laboratory of the future.

Individualism has been losing out as a practical doctrine for the past century because the invention of mass production encouraged the creation of big business, big labor and, triangulated between the two, big government. this has been the age not of Jefferson's yeoman farmer, but of William Whyte's Organisation Man. Now, however, computers are shifting the balance of power from collective entities such as ''society'' or ''the general good'' and handing it back to those whom governments once condescendingly referred to as their ''subjects''.

This cult of individual effort, completely detached from the old hierarchical or social structures, can be found everywhere in Silicon Valley. The place is full of bright immigrants willing to sacrifice their ancestral ties for a seat at the table; almost 30% of the 4,000 companies started between 1900–96, for example, were founded by Chinese or Indians. The Valley takes the idea of individual merit extremely seriously. People are judged on their brainpower, rather than their sex or seniority; many of the new internet firms are headed by people in their mid-20s.

The Valley's 6,000 firms exist in a ruthlessly entrepreneurial environment. It is the world's best example of what Joseph Schumpeter called ''creative destruction'': old companies die and new ones emerge, allowing capital, ideas and people to be reallocated. The companies are mostly small and nimble, and the workers are as different as you can get from old-fashioned company men. As the saying goes in the Valley, when you want to change your job, you simply point your car into a different driveway.

THE DISAPPEARING STATE

This twofold Siliconisation—the spread of both the Valley's products and its way of doing business—is beginning to challenge the rules of political life in several fundamental ways. And it is doing so, of course, not merely in America but the world over—though America is both farther ahead, and represents more fertile ground.

First, the cyber-revolution is challenging the expansionary tendencies of the state. Over the past century the state has grown relentlessly, often with the enthusiastic support of big business. But corporatism has no future in the new world of creative destruction. (It is a safe bet that imitation Silicon Valleys that have been planned by politicians are going to hit the buffers.)

The spread of computer networks is also moving commerce from the physical world to an ethereal plane that is hard for the state to tax and regulate. The United States Treasury, for example, is currently agonizing over the fact that e-commerce doesn't seem to occur in any physical location, but instead takes place in the nebulous world of ''cyber-space''. The internet also makes it easier to move businesses out of high-taxation zones and into low ones.

One of the state's main claims to power is that it ''knows better what is good for people than the people know themselves''. But the Siliconisation of the world has up-ended this, putting both information and power into the hands of individuals. Innovation is now so fast and furious that big organizations increasingly look like dinosaurs, while wired individuals race past them. And decision-making is dispersed around global networks that fall beyond the control of particular national governments.

The web is also challenging traditional ideas about communities. Americans are accustomed to thinking that there is an uncomfortable trade-off between individual freedom and community ties: in the same breath that he praises America's faith in individualism, Tocqueville warns that there is danger each man may be ''shut up in the solitude of his own heart''. Yet the Internet is arguably helping millions of spontaneous communities to bloom: communities defined by common interests rather than the accident of physical proximity.

Information technology may be giving birth, too, to an economy that is close to the theoretical models of capitalism imagined by Adam Smith and his admirers. Those models assumed that the world was made up of rational individuals who were able to pursue their economic interests in the light of perfect information and relatively free from government and geographical obstacles. Geography is becoming less of a constraint; governments are becoming less interventionist; and information is more easily and rapidly available.

So far—Mr. Castells apart—Silicon Valley has not produced a social thinker of any real stature. Technologists tend not to be philosophers. But at the very least, computerization is helping to push political debate in the right direction: linking market freedoms with wider personal freedoms and suggesting that the only way that government can continue to be useful is by radically streamlining itself for a more decentralized age.

It is a little early to expect that this sort of thinking will colour next year's campaigns; the new alliances between politicians and the cyber-elite have mostly sprung up for the most ancient and pragmatic of reasons. But it may only be a matter of time before America sees, on the back of the computer age, a great new flowering of liberal politics.

Mr. HOLLINGS. It says:

How things have changed. According to the Centre for Responsive Politics, a Washington watchdog group, by the end of June this year, contributions from the computer industry were already three times those given to Bill Clinton and Bob Dole combined during the 1996 campaign. Of the $843,000 in direct industry contributions, over one-third went to George W. Bush, the Republican front-runner, with the two Democrats—Vice President Al Gore and Bill Bradley—both netting about half of the Texas Governor's total. These figures tell only part of the story, however. They do not include contributions from telecommunications and biotech companies, nor the millions of dollars the candidates have received in fundraisers organised by computer executives and venture capitalists: entrepreneurs who helped fuel the high-tech boom, and are now helping pave the way to the White House.

And on and on. If they can see it in downtown London and on Main Street America with the headline, ''The Buyer's Guide To Congress,'' and list in this particular bill the Caribbean tariff relief bill, we Senators don't have any pride. Is there no shame? Can't we understand what is going on and that NAFTA doesn't help the workers in South Carolina? We lost all the jobs. What few remain, they are saying the high-tech revolution has passed by, and it says the info revolution escapes them.

If I could get Gates to South Carolina tomorrow morning, I would bring him in. He is a wonderful industry and everything else. At least give President Reagan credit; we subsidized the semiconductor industry by putting in a voluntary restraint agreement and Sematech.

That is why we would have Intel and otherwise gone. Yes; we have moments of sobriety in this particular body. But it is election 2000. It is all financing, and the buying of the Congress. They ought to be ashamed to bring this bill.

But I will make the Senator from Delaware a deal. If he will accept a side agreement on labor similar to what we have on NAFTA, and a side agreement that we have on NAFTA with respect to the environment and reciprocity, we would not even have to. Those amendments ought to be accepted. They were on the NAFTA agreement. If he will accept those, I will sit down, and we can go ahead and vote on this particular bill. I make that proposal to the distinguished Senator from Delaware. After he has had a chance to study it, I hope to hear from him because it would save all of us a lot of time.

I have had relevant amendments, instead of the ''Hollings filibuster'' all last week. The majority leader filibustered. He knew how to do what he wanted to do. He filled the tree where you couldn't put up those amendments. You couldn't put up any kind of amendment with respect to child labor. You couldn't put up in any amendments with respect to trade. He filled the tree. He forced fast track. It was a bill with his amendments, take it or leave it.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

DOD INSPECTOR GENERAL

Mr. GRASSLEY. Mr. President, it is with a feeling of disappointment that I come to the floor today. What's bothering me is a disturbing report I am releasing today on the Office of the Inspector General, or IG, at the Department of Defense, DOD.

This is about a report prepared by the Majority Staff of the Judiciary Subcommittee on Administrative Oversight and the Courts, of which I am the Chairman.

I have always had such great respect for the DOD IG. I have always thought that we could rely on that office to be fair and independent and thorough, and above all, honest.

In the past, I always felt like I could trust the DOD IG's judgment.

This report, Mr. President is disturbing.

The evidence in this report questions the credibility of the IG's investigative process. And it raises questions about the judgment of the Acting IG, Mr. Donald Mancuso.

It is a report on the Oversight Investigation of allegations of misconduct at the Defense Criminal Investigative Service, or DCIS. DCIS is the criminal investigations arm of the DOD IG.

The allegations examined by the Staff involve possible misconduct by DCIS agents between 1993 and 1996.

The current Acting DOD IG, Mr. Mancuso, is associated with the allegations. Mr. Mancuso was the Director of DCIS from 1988 until 1997, when he became the Deputy DOD IG.

I also understand that Mr. Mancuso is a potential candidate for nomination to be the next DOD IG.

In June 1999, the Staff was approached by a former DCIS agent, Mr. William G. Steakley.

Mr. Steakley raised numerous allegations regarding prohibited employment practices at DCIS, but these were far too extensive and complex to be examined by my small Subcommittee staff.

However, one of Mr. Steakley's allegations caught our attention. This was the allegation that DCIS officials had ''made false statements'' in adverse reports on his conduct.

Mr. Steakley alleged that an agent assigned to the DCIS internal affairs unit, Mr. Mathew A. Walinski, had a history of falsifying investigative reports to damage the reputations of fellow agents.

Mr. Steakley further alleged that senior DCIS management, including Mr. Mancuso, was fully aware of the allegations about this agent's unethical practices, yet failed to take appropriate corrective action.

And Mr. Steakley claimed he had proof to back up the allegations.

The staff conducted a careful examination of these allegations and concluded that some have merit.

To evaluate the allegations, the staff reviewed numerous documents to include the extensive files at the Office of Special Counsel, OSC, DOD personnel files, and DCIS investigative reports. The staff also conducted a number of formal interviews.

A careful review of all pertinent material makes one point crystal clear:

The evidence shows that Mr. Walinski fabricated his reported interview of the Air Force payroll technician, Ms. Nancy Gianino, on May 21, 1993. This reported interview was conducted in connection with the investigation of possible tax evasion charges against Mr. Steakley.

In addition, OSC files contain numerous references to a second internal affairs case handled by Mr. Walinski, in which he apparently fabricated another report.

When the staff asked the DOD IG for this case file—known as the Johanson stolen gun case, they discovered that Mr. Walinski had apparently fabricated the reported interview of Agent Jon Clark on March 2, 1994 and possibly others. This file contains sworn statements by the agents involved that Walinski's reported interview with Clark never took place.

These two cases—when taken together—show that Mr. Walinski has a history of falsifying reports.

And more importantly, the record shows that rank and file complaints about Mr. Walinski's unethical investigative practices went directly to top DCIS management, including Mr. Mancuso.

The record also shows DCIS management knew about the Walinski problem but failed to take appropriate corrective action.

Yet despite rank and file complaints, Mr. Walinski's false reports were used by DCIS management to discredit and punish Agents Johanson and Steakley.

In January 1999, Mr. Walinski was allowed to transfer to another federal law enforcement agency—the Treasury IG—with no record of punishment or accountability. In his new assignment, Mr. Walinski is still responsible for investigating employee misconduct.

In fact, the record shows that at least 3 weeks after DCIS management was informed that Mr. Walinski had fabricated the Clark interview, he was given a generous cash bonus award.

Moreover, Mr. Walinski was assigned to conduct an inspection of the field office where rank and file complaints about his false reports had originated.

While investigating Mr. Steakley's allegations, the staff discovered that the DCIS internal affairs unit—to which Mr. Walinski was assigned—was directed by Mr. Larry J. Hollingsworth.

Mr. Hollingsworth was convicted of a felony in U.S. District Court in March 1996. He was apprehended and confessed to filing a fraudulent passport application after a fellow agent recognized his photo in a law enforcement bulletin.

The government authorities, who investigated Mr. Hollingsworth's criminal conduct, believe that he committed about 12 overt acts of fraud. These overt acts of fraud were committed while Mr. Hollingsworth was Director of the DCIS internal affairs unit—Mr. Walinski's office.

Mr. President, can you imagine that? The head of the internal affairs unit of DOD's criminal investigative division was committing passport fraud. That's certainly a confidence builder in that organization, isn't it?

These authorities further believe Mr. Hollingsworth's actions were especially disturbing since passport fraud is usually committed in furtherance of a more serious crime, but the underlying crime was never discovered.

Although Mr. Mancuso and Mr. Hollingsworth were considered friends by associates, Mr. Mancuso failed to recuse himself from administrative actions affecting Mr. Hollingsworth.

Mr. Mancuso even aided in Hollingsworth's defense during criminal trial proceedings—even though Mr. Hollingsworth was considered uncooperative.

What's more, Mr. Mancuso endorsed an outstanding performance rating for Mr. Hollingsworth three weeks after he confessed to felonious activity to U.S. State Department special agents.

Mr. Mancuso even wrote a letter on official DOD IG stationary to the sentencing judge, Judge Ellis, on the convicted felon's behalf.

In this letter, he asked the judge to consider extenuating circumstances. He told the judge that Mr. Hollingsworth had taken a half day's leave to file the fraudulent passport application. Evidently, Mr. Mancuso thought that taking leave to commit a crime was sonehow exculpatory.

This is what Mr. Mancuso said in his letter to Judge Ellis, and I quote: ''Mr. Hollingsworth could have come and gone as he pleased,'' but he ''took leave to commit a felony.''

Mr. Mancuso concluded with this telling remark: ''To this day, there is no evidence that Mr. Hollingsworth has ever done anything improper relating to his duties and responsibilities as a DCIS agent and manager.''

Coming from a law enforcement officer like Mr. Mancuso, these words defy understanding. The last time I checked, part of doing your job as a law enforcement officer is not committing crimes.

Mr. Hollingsworth confessed to and was convicted of felonious activity while employed by DCIS as a criminal investigator.

As State Department agents put it, these crimes were committed in the furtherance of a more serious crime that was never discovered.

Unfortunately, Mr. Mancuso seems to have been completely blind to the problem.

As a result of a series of decisions—personally approved by Mr. Mancuso, Mr. Hollingsworth was allowed to remain in an employed status at DCIS for 6 months after his felony conviction. He was then allowed to retire with a full federal law enforcement annuity exactly on his 50th birthday in September 1996.

Had Mr. Mancuso exercised good judgement and other available legal options, Mr. Hollingsworth could have been removed from DCIS immediately after conviction—in March 1996. Under these circumstances, he would have been forced to wait 12 years—until the year 2008—to begin receiving a non-law enforcement annuity commencing at age 62. Had Mr. Mancuso exercised this option, he would have saved the taxpayers at least $750,000.00, which is the amount of money Mr. Hollingsworth will collect thanks to the generous treatment he received from his friend and colleague, Mr. Mancuso.

Think of the signal this sends to rank and file law enforcement officers who look to their managers for leadership and fair treatment.

The office of the DOD IG demands the highest standards of integrity, judgment, and conduct.

Does Mr. Mancuso meet those standards?

Given Mr. Mancuso's poor judgment and his irresponsible handling of the three cases examined in the staff report, I believe it is reasonable to question:

(1) Whether Mr. Mancuso should now be nominated and confirmed as the DOD IG;

(2) Whether Mr. Mancuso should be allowed to remain in the post he now occupies—Acting DOD IG;

And given the evidence that Mr. Walinski falsified several investigative reports, it is reasonable to question whether he should be assigned to a position at the Treasury Department in which he is responsible for conducting criminal and administrative inquiries.

Mr. President, today I am forwarding the Majority Staff report to the appropriate committees, the Secretaries of Defense and Treasury and other officials.

These officials must evaluate Mr. Mancuso's fitness to serve as the DOD IG as well as Mr. Walinski's continued assignment as a criminal investigator.

I hope they will take the time to review this report before making a final decision on these matters.

Mr. President, I now ask unanimous consent to have printed two documents in the RECORD: (1) A letter of comment from Mr. Mancuso; and (2) the Majority Staff report. I know it's a lengthy report, and the GPO says it will cost $2,282.00 to print. But leaving no stone unturned in ensuring that a person of the highest integrity occupies the key watch dog post of DOD IG is well worth that cost, in my view.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MAJORITY STAFF REPORT TO THE CHAIRMAN ON THE OVERSIGHT INVESTIGATION—THE DEFENSE CRIMINAL INVESTIGATIVE SERVICE, DEPARTMENT OF DEFENSE

(U.S. Senate Judiciary Subcommittee on Administrative Oversight and the Courts, October 1999, Senator Charles E. Grassley, Chairman)

EXECUTIVE SUMMARY

The Majority Staff for the Senate Judiciary Subcommittee on Administrative Oversight and the Courts has conducted an inquiry into the personnel practices and conduct of certain agents within the Defense Criminal Investigative Service (DCIS). The DCIS is an agency in the Office of the Department of Defense (DOD) Inspector General (IG). The former Director of DCIS—a sworn federal law enforcement officer—is now Acting DOD IG, Mr. Donald Mancuso. Mr. Mancuso was Director of DCIS from 1988–1997. Mr. Mancuso is currently a potential candidate for nomination to be the next DOD IG.

This staff report contrasts DCIS personnel management practices that condoned and encouraged maltreatment of rank and file agents, including the use of falsified investigative reports, while protecting and rewarding a fellow manager who was a convicted felon. Management's favorable treatment of the convicted felon, Mr. Larry J. Hollingsworth, will result in his receiving substantial sums of money in federal law enforcement retirement annuities between 1996 and the year 2008. If DCIS management had exercised good judgment and other more reasonable options, Mr. Hollingsworth would not have been allowed to retire on his 50th birthday and receive the $750,000.000 in benefits. He would have had to wait 12 years to retire. In another matter, a criminal investigator, who falsified reports. Mr. Mathew A. Walinski, also received a cash bonus award after this misconduct was brought to the attention of senior DCIS management.

The staff report cites three separate personnel cases brought to the Subcommittee's attention involving DCIS. Each of these cases involves questionable personnel practices that were either condoned or ignored by DCIS management between 1993 and 1996.

The Subcommittee on Administrative Oversight and the Courts has primary jurisdiction and oversight authority for administrative practices and procedures throughout the Federal Government. As part of the process of conducting its oversight responsibilities, the Subcommittee has been examining administrative procedures followed by various inspectors general. This report reflects the Subcommittee Majority Staff's review of questionable administrative decisions and misconduct within the criminal investigative branch in the DOD IG's office—DCIS, while Mr. Mancuso was the director of the organization.

BACKGROUND

In June of 1999, the Subcommittee Majority Staff was approached by a former agent of DCIS, Mr. Gary Steakley. Mr. Steakley alleged that a DCIS internal affairs Special Agent, Mr. Walinski, had a history of falsifying official reports to damage the reputations of fellow agents. Mr. Steakley also alleged that senior officials at DCIS were fully aware of this agent's questionable practices, yet failed to take appropriate corrective action.

It should be noted that an investigator in the Office of Special Counsel (OSC), Mr. William Shea, also looked into Mr. Steakley's allegations of DCIS misconduct. OSC concluded that Mr. Steakley was not a victim of prohibited personnel practices. While the staff examined the conduct of DCIS supervisors in regard to several specific decisions, it did not attempt to examine the numerous other allegations raised by Mr. Steakley.

While investigating Mr. Steakley's allegations, the staff learned that Mr. Walinski was supervised by Mr. Hollingsworth—the director of internal affairs. Mr. Hollingsworth was convicted of a felony in April 1996. Nonetheless, management allowed him to retire with full federal law enforcement retirement benefits six months after his felony conviction. Federal law enforcement agencies commonly remove an employee on criminal misconduct alone, or at a minimum, immediately after a felony conviction. Had management availed itself of other appropriate legal removal options, Mr. Hollingsworth would not have been allowed to retire on his 50th birthday, which gave him entitlement to benefits amounting to more than three quarters of a million dollars.

The staff reviewed numerous documents to include the above-referenced OCS investigation, DOD personnel files, DOD investigative reports, a Subcommittee-requested review by the Office of Personnel Management (OPM), State Department Diplomatic Security investigative reports, and public court papers registered in the U.S. District Court for the Eastern District of Virginia. The Subcommittee Majority Staff also conducted the following formal interviews:

Former DOD personnel:

Mr. Matthew Walinski, DCIS Special Agent Internal Affairs

Mr. Larry Hollingsworth, DCIS Director of Internal Affairs

Mr. William Dupree, Deputy Director of DCIS

Ms. Eleanor Hill, Former DOD Inspector General

Current DOD personnel:

Mr. Donald Mancuso, Former Director of DCIS and Current Acting IG for DOD

Ms. Jane Charters, DCIS Investigative Support

Ms. Donna Seracino, Director of Personnel for DCIS

Ms. Linda Martz, Employee Relations Specialist

Mr. Paul Tedesco, DCIS liaison agent in Hollingsworth criminal case

Mr. John Keenan, Current Director of DCIS, formerly Dir., DCIS Operations

Mr. Thomas Bonner, Current Agent in Charge Dallas Office, DCIS, Assist. Dir DCIS Internal Affairs

Ms. Nancy Gianino, Air Force Payroll Specialist

Lt. Col. Greg McClelland, DOD IG Administrative Investigator

State Department Personnel:

Special Agent Robert Starnes and Special Agent Sean O'Brien

Office of Special Counsel:

Investigator William Shea

Current and former DCIS Special Agents were also interviewed on a confidential basis. They requested confidentiality out of fear of reprisal. This report will show fears of such reprisal are plausible based on the facts developed by the Subcommittee.

SUMMARY OF SIGNIFICANT FINDINGS

The case of convicted felon Mr. Hollingsworth

Mr. Hollingsworth was the Director of internal affairs for DCIS from April 1991 to September 1996. This unit routinely conducted investigations regarding the integrity and conductor of agents in DCIS. As stated above, in at least two cases, DCIS management had knowledge of false witness statements by an internal affairs agent, Mr. Walinski.

Former Director of DCIS, Mr. Donald Mancuso, assisted Mr. Hollingsworth in remaining in an employed status—as Director of internal affairs—for six months after his felony conviction in U.S. District Court. Law enforcement authorities, who investigated Mr. Hollingsworth's criminal activities, believe that he committed at least 12 acts of overt fraud while head of the DCIS internal affairs unit.

Mr. Mancuso, a sworn federal law enforcement officer, aided in the defense of this particular subordinate at his criminal trial. At no time did Mr. Mancuso offer to recuse himself from administrative or personnel actions

in regards to Mr. Hollingsworth—even though they were considered ''close personal friends.''

Mr. Mancuso endorsed an outstanding performance evaluation of Mr. Hollingsworth three weeks after he confessed to felonious activity to the U.S. State Department special agents.

Using official DOD IG stationery, with DOD IG emblem, Mr. Mancuso wrote to the sentencing judge on the convicted felon's behalf, even though the State Department investigators opined Mr. Hollingsworth was an uncooperative defendant. Mr. Mancuso signed the letter in his official capacity as an Assistant Inspector General.

Former DOD Inspector General Eleanor Hill stated that Mr. Mancuso did not advise her of pertinent facts in the case. Ms. Hill had directed Mr. Mancuso to remove Mr. Hollingsworth from his position ''as soon as legally possible.''

Mr. Mancuso directly assisted Mr. Hollingsworth in obtaining over three quarters of a million dollars in full federal law enforcement retirement benefits six months after a felony conviction. OPM retirement experts, legal counsel at DOD's Washington Headquarters Service, and Inspector General regulations all state that Mr. Mancuso had options to remove this employee immediately after conviction. In fact, the law, DOD regulations, and an OPM opinion all suggest that Mr. Hollingsworth could have been removed based on the criminal conduct alone, and not on criminal court procedures.

The retirement benefits given to Mr. Hollingsworth were extremely generous, since federal law enforcement officials may retire at ago 50 instead of age 62, and computation of their general schedule grade has law enforcement availability pay of up to 25% added in on top of regular pay. This resulted in a convicted felon being able to obtain approximately $750,000.00 in additional annuity payments (excluding cost-of-living allowances) as compared to what he would have received had he been terminated immediately after conviction and allowed only non-law enforcement civil service retirement benefits commencing at age 62 in the year 2008.

Falsification of Witness Statements by Agent Walinski in Steakley Case

There were numerous claims of misconduct made by Mr. Steakley in regard to the conduct of the DCIS office of internal affairs. Several of Mr. Steakley's allegations were substantiated.

There is credible evidence that at least one agent assigned to DCIS internal affairs, Agent Walinski, falsified a witness statement in support of a tax evasion charge against Mr. Steakley, and was reprimanded and reassigned for a similar problem in another internal affairs case. Agent Walinski even acknowledged that the tax evasion charge was ''unresolved'' and that his inconclusive findings were not made apparent in his report to the DCIS Administrative Review Board (ARB).

The false tax evasion charge in which Mr. Steakley was eventually exonerated was instigated by DCIS management, to include Mr. Mancuso, in an area in which DCIS had no authority or jurisdiction. The States of California and Virginia repeatedly informed DCIS that the agency could not obtain Mr. Steakley's tax records without a court order or authorization from the taxpayer involved. DCIS had neither.

In an interview with the Subcommittee staff, Lt. Col. Greg McClelland, an independent DOD IG investigator assigned to review allegations by Mr. Steakley, characterized the conduct of Agent Walinski in this case as ''egregious.'' The Subcommittee staff has substantiated evidence that Agent Walinski made false statements to Lt. Col. McClelland in sworn testimony in 1997.

Mr. Steakley's attorney, Mr. Luciano A. Cerasi of the Federal Law Enforcement Officers Association (FLEOA), notified DCIS management that Agent Walinski's witness interview of an Air Force payroll technician was falsified. DCIS management ignored Mr. Cerasi's allegations despite the fact that it had received another FLEOA letter alleging that Agent Walinski had falsified witness statement in a separate internal affairs investigation.

Falsification of Witness Statements by Agent Walinski in Johanson Case

Prior to the adjudication of the Steakley case, Agent Walinski had falsified witness statements against another DCIS agent.

DCIS Agent Stephen Johanson had his undercover weapon stolen from his residence near Los Angeles, California while he was participating in the execution of a search warrant in another California city. In the investigation that followed the theft of Johanson's weapon. Agent Walinski falsified more witness statements. His false reports resulted in a recommendation that Agent Johanson be suspended without pay for 8 calendar days for failing to secure and return an issued weapon. DCIS supervisors and rank and file agents protested to management at DCIS headquarters in Washington that Agent Walinski's interviews were either inaccurate or never took place.

FLEOA attorney Cerasi wrote a second letter to top DCIS management supporting rank and file agents' complaints about Agent Walinski's reports in the Johanson case. Mr. Cerasi alleged that Agent Walinski has falsified his interview of Agent Jon Clark.

DCIS officials *claim* that Agent Walinski was reprimanded for ''failing to show due diligence and accuracy'' in reporting witness interviews in the Johanson case. Agent Walinski reported an interview of DCIS Agent Clark that never took place. Despite these allegations, personnel records indicate that Agent Walinski received a cash award—at least 18 days after rank and file agents had formally complained to senior management at DCIS headquarters that Agent Walinski falsified reports. The staff could find no evidence that DCIS management ever attempted to determine if the allegations about Mr. Walinski's reports had merit. In fact, immediately following the first Johanson investigation and while the re-investigation was in progress, Mr. Walinski was assigned a leadership role in the inspection of the field office where the complaints about his reports had originated. This could be viewed as a retaliatory measure to silence the agents who had ''blown the whistle'' on Agent Walinski.

DCIS now records all witness interviews for accuracy. Some DCIS Agents refer to this new practice as ''the Walinski rule.''.

REPORT FORMAT

This report has been divided into three separate DCIS personnel cases as follows:

—The Case of Mr. Hollingsworth
—The Case of Mr. Steakley
—The Case of Mr. Johanson

In addition, the report includes written comments from the Acting DOD IG, Mr. Mancuso, along with an extensive list of the source documents used in preparing the report.

On September 27, 1999, Mr. Mancuso requested that he be given the opportunity to review this report prior to its release and to provide written comments. In response, the Subcommittee Chairman, Senator Charles E. Grassley, assured Mr. Mancuso that his written response would be attached to the staff report. Consistent with the Chairman's commitment, Mr. Mancuso's written response, dated October 1, 1999, is included at the end of the report.

The attachments listed at the end of each section of the report are far too voluminous to reproduce in the printed report. A complete set of the attachments will be maintained in the Subcommittee files and available on Judiciary Committee's web site along with other Committee documents.

CONCLUSIONS

The three personnel cases, which the staff reviewed, demonstrate disparate treatment given to DCIS employees by senior management.

Mr. Hollingsworth, a high ranking DCIS official, was convicted of a felony but protected by Mr. Mancuso and allowed to retire 6 months later—on his 50th birthday—with a full law enforcement annuity. Mr. Walinski falsified reports to such a degree that several witness statements appearing in his investigative reports never took place. He even claimed in sworn testimony in 1997 that a DOD employee, whom he had interviewed and reported absent from her office due to ''extended illness,'' had ovarian cancer, despite the fact there was no evidence that this person suffered from such a disease. Mr. Walinski received a cash bonus award weeks after allegations about his falsified reports reached senior DCIS management. DCIS management never attempted to determine whether those allegations had merit, and Mr. Walinski was allowed to transfer to another law enforcement agency—Treasury IG—with no record of accountability.

Two other DCIS employees were the subject of disciplinary action by DCIS management for significantly less serious offenses, and in one case, based on no evidence. Mr. Steakley, repeatedly and unjustly accused of numerous misconduct charges, is now retired with a damaged reputation among the federal law enforcement community that was undeserved. Similarly, Mr. Johanson was undeservedly punished for having a gun stolen from his residence during a burglary. This gun was issued to him by his own agency. The initial punishment proposed for Mr. Johanson was based on false witness interviews and a distorted interpretation of disciplinary guidelines.

The Office of the DOD Inspector General is a position that requires a very high standard of integrity, with equal treatment for all departmental employees. When information is developed on the criminal misconduct of a senior employee such as Mr. Hollingsworth, that employee should be removed ''as soon as legally possible'' to ensure that the morale of all employees is maintained. When allegations are made of misconduct such as against Mr. Walinski, the IG's office should ensure that allegations are professionally and thoroughly investigated, and all discrepancies are resolved. When allegations are made against employees such as Mr. Steakley and Mr. Johanson, charges should be investigated, witnesses should be accurately interviewed, and bias should not interfere with the integrity or facts in the investigation.

If DCIS—under Mr. Mancuso's management—could not investigate its own employees honestly and fairly, then how could the much larger Office of the DOD IG—if managed by Mr. Mancuso—be expected by the American people to investigate honestly and fairly misconduct and fraud within the entire Department of Defense?

Given Mr. Mancuso's poor judgment and his irresponsible handling of the three cases examined in this report, it is reasonable to question: 1) Whether Mr. Mancuso should now be nominated and confirmed as the DOD

IG—an office that demands the highest standards of integrity, judgment, and conduct; and 2) Whether Mr. Mancuso should be allowed to remain in the post of Acting DOD IG. In addition, given the evidence that Mr. Walinski falsified several witness interviews, it is reasonable to question whether Mr. Walinski should be assigned to a position in which he is responsible for conducting criminal or administrative inquiries.

RECOMMENDATIONS

1. The Majority Staff recommends that Members consider a change in legislation regarding federal law enforcement officers convicted of felonies. Consideration should be given to whether federal law enforcement officers should be immediately dismissed after their conviction of a felony.

Under current law, agencies have considerable discretionary authority in determining how to handle such cases. In the Hollingsworth case, a series of personnel actions approved by DOD Acting Inspector General Mancuso raise serious questions about his integrity and judgment. The proposed change in legislation could eliminate any discretionary authority on the part of individual law enforcement agencies in dismissing employees convicted of felonies.

2. The Majority Staff recommends that the Chairman forward this report to appropriate committees, the Secretaries of Defense and the Treasury and other officials who must evaluate Mr. Mancuso's fitness as a potential candidate to be DOD IG, as well as Mr. Walinski's continued assignment as a GS–1811 criminal investigator.

THE CASE OF MR. HOLLINGSWORTH

Mr. Larry J. Hollingsworth, former GS–15 Director of internal affairs, DCIS, was convicted of a felony charge in 1996 in U.S. District Court for the Eastern District of Virginia. Mr. Hollingsworth was never terminated by DCIS and allowed to retire on his 50th birthday—six months after a felony conviction. He is currently receiving full federal law enforcement retirement benefits totaling approximately $750,000.00 he would not otherwise have received had management exercised other more reasonable options.

Background on felonious activity by Mr. Hollingsworth

According to State Department law enforcement agents, Mr. Hollingsworth's criminal activity in this case commenced on or about September, 1992, when he reviewed the local obituaries in Florida and obtained the name of Charles W. Drew, who was born in 1944 and died in 1948. Mr. Hollingsworth, with a Top Secret security clearance, requested from the State of Florida a copy of the death certificate, representing himself as the deceased's half-brother. Mr. Hollingsworth leased a mailbox in Springfield, Virginia under the alias of Charles and Maureen Drew and Harold Turner.

Mr. Hollingsworth then obtained a birth certificate for Charles Drew from the State of Georgia and had it sent to the mailbox in Springfield, Virginia. Mr. Hollingsworth then leased another mailbox under the alias of Charles and Mary Drew in Arlington, Virginia. Mr. Holingsworth submitted an application and received a social security card under the alias Charles Drew Jr. by posing as the applicant's father. Mr. Hollingsworth, accompanied by his spouse, applied for and received a Virginia Department of Motor Vehicles identification card in the name of Charles Drew. Using the DMV identification card in the name of Charles Drew, Mr. Hollingsworth applied for a U.S. Passport. It should be noted that his wife, Mrs. Jaureen Hollingsworth, a DOD IG employee at the time, was never implicated or charged in this felonious activity. She was not a suspect in the investigation by the U.S. State Department. Mr. Hollingsworth stated to State Department law enforcement agents that he procured approximately eight to ten false identify documents, to include an international drivers license and a priest ID, by means of mail order.

In April of 1995, U.S. State Department law enforcement officials placed a photo of Mr. Hollingsworth in law enforcement bulletins as an unidentified suspect in passport fraud. the local Philadelphia office of DCIS notified DCIS headquarters in Washington D.C. that a photo of Mr. Hollingsworth was found in a bulletin. Officials at DCIS in Washington D.C. notified Mr. Mancuso who is turn immediately notified Inspector General Eleanor Hill. Mr. Mancuso was then ordered by DOD IG Eleanor Hill to notify the State Department Office of Inspector General.

[See Attachment #1—Sentencing memorandum date stamped 06/04/96]

[See Attachment #2—State Department Investigative Timeline]

Statements made by State Department law enforcement agent

On July 16, 1999, the Subcommittee Majority Staff interviewed Sean O'Brien, Special Agent with the State Department Diplomatic Security Service. Agent O'Brien was one of the agents assigned to the Hollingsworth case. Agent O'Brien stated that there were at least 12 overt acts of fraud perpetrated by Mr. Hollingsworth over the course of several years. Agent O'Brien felt that the actions of Mr. Hollingsworth were disturbing in light of the fact that passport fraud is usually committed in furtherance of a more serious crime, and a credible motive had never been established.

Mr. O'Brien added that family members of the deceased boy, Charles Drew, whose identify was used by Mr. Hollingsworth, were very upset and prepared to testify at trial. Agent O'Brien also opined that various motions to dismiss the case were delaying tactics used by Mr. Hollingsworth until he reached his 50th birthday—when he could retire with law enforcement benefits.

The State Department Supervisor of the Hollingsworth case, Special Agent Robert Starnes, stated that DCIS management initially refused to let him examine the contents of Mr. Hollingsworth's government computer under the pretense that Mr. Hollingsworth may have had personal and/or classified material on a government computer. Despite possessing a Top Secret security clearance, Agent Starnes had to raise the possibility of a search warrant with DCIS management before they acquiesced and allowed a consent search of the computer.

DCIS management assigned DCIS Agent Paul Tedesco as the point of contact in this case for the State Department. Relevant information regarding Mr. Hollingsworth's criminal conduct was provided by State Department investigators directly to DCIS Agent Tedesco during all criminal proceedings. Agent Tedesco also provided certified court documents to then Director of Operations and current Director of DCIS John Keenan. These court documents described the criminal conduct of Mr. Hollingsworth. Agent Tedesco stated that DCIS management was kept fully informed of the criminal conduct of Mr. Hollingsworth from the time of his confession through sentencing.

In the experienced opinion of State Department Case Agent Sean O'Brien, State Department Special Agent Case Supervisor Starnes and DCIS Case Liaison Agent Paul Tedesco, this fraudulent activity was most probably in furtherance of another crime that was never discovered or proven.

[See Attachment #3—Subcommittee memorandum of 07/16/99 interview with agent O'Brien]

Chronology of judicial and personnel actions in the case of Mr. Hollingsworth

07/28/95: Larry J. Hollingsworth's home is searched by U.S. State Department law enforcement agents and he subsequently confesses to fraudulently applying for a U.S. Passport. [See Attachment #4—Time line provided by DOD 7/27/95–9/20/96]

01/27/96: Larry J. Hollingsworth is indicted in U.S. District Court on two felony counts.

03/18/96: Larry J. Hollingsworth pleads guilty and is convicted of a felony, 18 USC 1001.

06/4/96: Convicted felon Larry J. Hollingsworth is sentenced to 30 days imprisonment on weekends, 2 years probation, 200 hours community service and a $5,000.00 fine. [See Attachment #5—U.S. District Court Criminal Docket]

08/12/96: Larry J. Hollingsworth is notified by DOD DCIS of a ''Proposed Removal'' and given thirty days to respond. [See Attachment #6—DOD OIG notice of Proposed Removal dated 08/12/96]

09/19/96: Larry J. Hollingsworth retires on his 50th birthday citing a reason of ''pursuing other interests''. [See Attachment #7—DOD Notice of Personnel Action form 50–B dated 09/19/94]

09/20/96: Larry J. Hollingsworth's attorney notifies then DOD Assistant Inspector General Mancuso that he waives his right to appeal the removal. [See Attachment #8—Letter from Hollingsworth's attorney to Mr. Mancuso dated 09/20/96]

DOD General Counsel claims conditional plea prevented removal of Mr. Hollingsworth

On September 14, 1999, Mr. Mancuso and the Deputy General Counsel (Inspector General), Mr. Kevin Flanagan, stated to the Subcommittee that the reason Mr. Hollingsworth was never removed and allowed to retire, was that his guilty plea was ''conditional'' and that he could withdraw his plea at any time at his own initiative.

The Federal Rules of Criminal Procedure Rule 11(A)(2) states; ''with the approval of the court and the consent of the government, a defendant may enter a conditional plea of guilty or nolo contendere, reserving in writing the right, on appeal from the judgment, a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal shall be allowed to withdraw the plea.''

The plea agreement in this case acknowledges a conditional plea by Mr. Hollingsworth reserving ''his right to appeal the Court's adverse March 8, 1996 ruling denying defendant's motion to suppress his statement to State Department Agents''. The plea agreement also states; ''the defendant knowingly waives his right to appeal any sentence.''

Therefore, Mr. Hollingsworth never had unilateral authority to withdraw his plea at anytime, as Mr. Mancuso and DOD General Counsel argued. Their reason for not terminating Mr. Hollingsworth after conviction appears to be invalid.

[See Attachment #20—Rules of Criminal Procedure 11(a)(1)]

[See Attachment #21 Plea Agreement dated 03/15/96 page 3]

Mr. Hollingsworth was never removed by DOD and as stated in the chronology, remains a convicted felon despite the numerous motions to dismiss. Federal Law, DOD IG regulations, legal counsel at the DOD Washington Headquarters Services (WHS) and OPM General Counsel stated that Mr. Hollingsworth could have been removed based on his criminal misconduct alone. The misconduct must be proved with a ''preponderance of the evidence'' and not ''beyond a

reasonable doubt.'' Preponderance of the evidence is a much lower threshold than a criminal court procedure wherein criminal conduct must be proved ''beyond a reasonable doubt.''

Federal law states Mr. Hollingsworth could be dismissed within 7 days

5 U.S.C. 7513, (b), regarding removals of federal employees states:

1. At least 30 days advance written notice, *unless there is reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed, stating the specific reasons for the proposed action.*

2. A reasonable time, but not less than seven days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer. [See Attachment #9—5 United States Code 7513]

The DOD Time Line cites this law as reason for a 60 day delay in issuing a 30 day ''proposed removal.'' Mr. Hollingsworth had already served a considerable amount of time in jail before the proposed removal was issued.

DOD Inspector General Regulations state Mr. Hollingsworth could have been terminated after Indictment.

IGDR 1400.4, Displinary and Adverse Action dated December 30, 1994, page 7, states an immediate removal can be initiated ''when the agency has reasonable cause to believe that an employee has committed a crime for which a sentence of imprisonment may be imposed. Reasonable cause to believe is not established by the mere fact either of an arrest or an ongoing agency investigation of possible criminal misconduct. A criminal indictment will usually constitute reasonable cause.''

[See Attachment #10—IGDR—dated 12/30/94, Page 7]

DOD WHS Legal Counsel advises Mr. Hollingsworth may be terminated after his guilty plea

On March 14, 1996, Gilda Goldsmith, legal counsel at the DOD WHS, advised that ''the indefinite suspension, which suspends Mr. Hollingsworth from duty until final disposition of criminal charges and any administrative proceedings, does not bar the agency from terminating him based on his guilty plea . . . the agency could remove Mr. Hollingworth for both the guilty plea and underlying conduct, but would have to prove the conduct by a preponderance of the evidence if the conviction is reversed.''

[See Attachment #11—DOD WHS Legal Counsel memo dated 03/14/96]

OPM General Counsel cites other options available to DCIS management

The Subcommittee Majority Staff requested the assistance of OPM in determining whether Mr. Hollingsworth, a convicted felon, was entitled to a federal law enforcement retirement six months after conviction and two months after serving his senence of jail on weekends. He received retirement credit and remained in an employed status as Director of Internal Affairs durng the six months in question to include two months of jail time on weekends.

On July 20, 1999, DOD Personnel Director Donna Seracino stated that Mr. Hollingsworth could not be immediately removed after his guilty plea and felony conviction because ''he had rights to due process under OPM guidelines''.

On September 13, 1999, OPM General Counsel Suzanne Seiden stated in her legal opinion: ''Instead of seeking to remove him because of the criminal conviction, it is possible that DCIS appropriately could have charged him with, among other things, an action under 5 U.S.C., 7513, on grounds of general criminal misconduct or failure to maintain his security clearance. Further, DCIS might have chosen to expedite his removal following Mr. Hollingsworth's guilty plea''.

[See Attachment #12—OPM General Counsel opinion dated 09/13/99]

Outstanding evaluation for Mr. Hollingsworth endorsed by Director of DCIS Mancuso

On August 18, 1999, approximately three weeks after Mr. Hollingsworth's home was searched and he confessed to at least three years of felonious activity (07/27/95), Mr. Mancuso signed and approved an ''outstanding'' performance evaluation for Mr. Hollingsworth. Mr. Hollingsworth replied on the evaluation form; ''I appreciate your comments on my appraisal, especially in light of my recent actions.''

[See Attachment #13—Employee Performance rating signed by Mr. Mancuso 08/18/95]

Mr. Mancuso places Mr. Hollingsworth on Paid Leave

On November 22, 1995, Mr. Mancuso decided to hold indefinite suspension of Mr. Hollingsworth in abeyance and advised ''Mr. Hollingsworth he would be carried on sick leave for any period of time that was supported by acceptable medical documentation, carried on annual leave as long as he had an annual leave balance and requested such leave, and that the indefinite suspension would become effective when his annual leave was exhausted and he no longer met the requirements for sick leave.''

[See Attachment #4—Time line provided by DOD 7/27/95–9/20/96]

Mr. Mancuso advises Mr. Hollingsworth to meet with a physician

On November 22, 1995, ''Mr. Mancuso advises Mr. Hollingsworth to schedule an appointment with the Independent Medical Evaluation (IME) physician. The agency would approve sick leave through November 30, 1995, and any request for additional sick leave would be held in abeyance pending receipt and review of the additional medical documentation.''

[See Attachment #4—Time line provided by DOD 7/27/95–9/20/96]

Assistant United States Attorney opposes use of physician as Defense Witness

On March 8, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to the U.S. District Court in regards to the testimony of the IME physician for the defense:

''This testimony is not relevant to a determination of any issue to be tried in this case. It is a patent attempt at jury nulifcation by presenting evidence in the hope of making the defendant sympathetic to the jury. It is a backdoor attempt to raise issues of mental condition prohibited by law; and it is prejudicial, confusing, and misleading. This court should exclude any proposed psychiatric testimony from evidence at trial.''

[See Attachment #14—Government's motion to exclude psychiatric testimony page 2]

Mr. Seldon, Attorney for Mr. Hollingsworth, contacts DOD Employee Relations concerning retirement

On February 7, 1996, the defense attorney for Mr. Hollingsworth contacts DOD Employee Relations Specialist Linda Martz. She states the attorney said ''he wanted to ensure that his client was technically on the agency rolls. I said yes. Mr. Seldon said the U.S. Attorney wanted his client to plead guilty to one felony count. He said he understood that if the criminal matter ended and Mr. Hollingsworth was convicted, removal was probable. He asked if that was correct. I said most likely. He said his client's hope was to stay on the agency rolls until September 1996 at which time he would retire. I said he could retire now, but not under law enforcement. Mr. Seldon said he understood that, but there would be a substantial reduction.''

[See Attachment #15—Memorandum for the record of Linda Martz dated 02/07/96]

Defendant Hollingsworth makes motion to dismiss case

On March 12, 1996, Mr. Hollingsworth's defense attorney made a motion in U.S. District Court to dismiss the charges, citing Mr. Mancuso's request for medical information. He said Mr. Mancuso had ''directed him to provide sufficient medical information which will be reviewed by the medical consultant for the Office of Inspector General, to assist him in making a decision on the proposed suspension.''

[See Attachment #16—Motion to dismiss indictment page 3 section 7]

Assistant United States Attorney comments on sick leave status and use of a physician

On March 12, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to U.S. District Court:

''The defendant's motion to dismiss the indictment is not only untimely, it is frivolous . . . The government (in the form of the United States Attorneys Office) was not party to any negotiations concerning the defendants sick leave. In fact, the first time we head about this was on March 7, 1996, when defense counsel faxed us a letter detailing Dr. Holland's findings.''

''The United States Attorneys Office had no opportunity, whatsoever to be heard in the negotiations between Mr. Hollingsworth's lawyers and the Department of Defense concerning whether Mr. Hollingsworth should be granted sick leave because he was allegedly suffering from depression a year-and-a-half after he had committed the crimes and 4 months after he had been caught.''

[See Attachment #17—Opposition to Defendant's Motion to Dismiss page 3]

Attorney for Mr. Hollingsworth contacts DOD Employee Relations one day after motion to dismiss and complements Mr. Mancuso for assistance.

On March 13, 1996, Linda Martz, DOD Employee Relations Specialists took a call from Mr. Seldon, attorney for Mr. Hollingsworth. She stated; ''Mr. Seldon wanted to know what Larry's sick and annual leave balances were. . . . I went on to explain that when he was indicted the situation took on another look. He said he understood and believed Mr. Mancuso did what he could be help Mr. Hollingsworth''.

[See Attachment #18—Linda Martz memo dated 03/13/96]

Mr. Mancuso acknowledges Mr. Hollingsworth's criminal conduct was perpetrated in furtherance of another unknown crime

On September 14, 1999, during a Subcommittee Majority Staff interview regarding the criminal misconduct of Mr. Hollingsworth, Mr. Mancuso stated he now believes that logically, the criminal misconduct of Mr. Hollingsworth appeared to be in furtherance of another crime.

Mr. Mancuso writes letter to sentencing judge on behalf of Mr. Hollingsworth

Mr. Mancuso wrote a letter dated April 29, 1996, to sentencing Judge Ellis on official DOD Assistant Inspector General stationary. Mr. Mancuso wrote this letter ''on behalf of Mr. Hollingsworth . . . one of the few individuals in whom I placed complete confidence and trust.'' In writing the letter, Mr. Mancuso asked the judge to consider extenuating circumstances. For example, he told

the judge that Mr. Hollingsworth took a half day's leave to file the fraudulent passport application. Mr. Mancuso said he was not surprised by this action. He said: ''Mr. Hollingsworth could have come and gone as he pleased,'' but he ''took leave to commit a felony.'' Mr. Mancuso went on to say: ''To this day, there is no evidence that Mr. Hollingsworth has ever done anything improper relating to his duties and responsibilities as a DCIS agent and manager.''

In concluding the letter, Mr. Mancuso added: ''I do ask, however, that you consider all these things as well as his stated remorse and acceptance of responsibility for his actions . . . it is our intention to consider removal action against him after the conclusion of the criminal charges. In this regard, I would ask that you consider the severity of these administrative actions as you pronounce sentencing.''

The letter was signed; ''Sincerely, Donald Mancuso, Director, Defense Criminal Investigative Service''.

[See Attachment #19—Letter from Mr. Mancuso to Judge Ellis dated 04/29/96]

Mr. Mancuso comments on letter to Judge Ellis

In a Majority Staff interview on September 14, 1999, Mr. Mancuso claimed that the stationary used in the letter to Judge Ellis was ''personal, bought with my own money'' and not official DOD Inspector General stationary. It was pointed out to Mr. Mancuso that the letterhead had a government seal which contained the words; ''Inspector General—Department of Defense.'' In addition, Mr. Mancuso signed the letter in his official capacity as an Assistant Inspector General. The letter was made a part of the sentencing report by Judge Ellis.

[See Attachment #19—Letter from Mr. Mancuso to Judge Ellis dated 04/29/96]

[See Attachment #1—Sentencing memorandum date stamped 06/04/96]

Assistant United States Attorney comments on lack of remorse by Mr. Hollingsworth

On March 12, 1996, Assistant United States Attorney Thomas G. Connolly for the Eastern District of Virginia stated in his legal brief to U.S. District Court:

''The defendant's appreciation of the wrongfulness of his conduct in April of 1994 has never been determined in any hearing at which the United States Attorneys Office (or any other government agency, including the Department of Defense) was a party.''

[See Attachment #17—Opposition to Defendant's Motion to Dismiss page 3]

Assistant United States Attorney comments on Mr. Hollingsworth's mental state

''Mr. Hollingsworth's condition, whatever it is, is not found in DSM IV, the 886-page tome that lists every psychosis, neurosis, syndrome, and personality disorder known to man.''

[See Attachment #14—Government's motion to exclude psychiatric testimony page 5]

Mr. Dupree, former Deputy Director of DCIS, stated Mr. Hollingsworth was considered a cooperative defendant by DCIS management

On August 24, 1999, Mr. Dupree, a former Deputy Director of DCIS, and under the direct supervision of Mr. Mancuso, was interviewed by the Majority Staff. Mr. Dupree reviewed proposals to remove DCIS employees for misconduct based on internal investigations. He characterized Mr. Hollingsworth as a ''cooperative defendant''. Mr. Dupree stated that it would have been easier to remove Mr. Hollingsworth if he had misused a government vehicle.

9/13/96—Mr. Hollingsworth requests extension on proposal removal

On August 23, 1996, Mr. Hollingsworth asks Mr. Mancuso for an extension of his proposed removal pending an oral reply to be made on 09/13/96.

[See Attachment #4 Time line provided by DOD 7/27/95–9/20/96]

Mr. Mancuso grants requested extension and schedules oral response for 09/23/96, four days after Mr. Hollingsworth's 50th Birthday

On August 26, 1996, Mr. Mancuso grants the extension request and schedules the oral reply for September 23, 1996, the first available date because Mr. Mancuso claimed that he would ''be on travel much of September and will not be available to hear Mr. Hollingsworth's oral response'' until that date.

A review of Mr. Mancuso's travel vouchers suggests that the projected travel conflicts—outlined in his August 26, 1996 memo—never materialized and that he would have been available to hear the case at any point during the month of September—with several minor exceptions. During an interview on September 14, 1999, Mr. Mancuso was asked if he was aware of Mr. Hollingsworth's birthday when he signed the August 26, 1996 memo. Initially, he denied having that knowledge, but with coaching from Deputy DOD General Counsel Flanagan, he admitted that he did, in fact, know that Mr. Hollingsworth's 50th birthday was in September 1996.

[See Attachment #4 Time line provided by DOD 7/27/95–9/20/96]

Convicted Felon Mr. Hollingsworth retires with full federal law enforcement retirement benefits totaling over $750,000.00

On September 19, 1996, Mr. Hollingsworth retired on his 50th birthday and first date of eligibility for federal law enforcement retirement, citing his desire ''to pursue other interests.'' Mr. Hollingsworth currently receives full federal law enforcement retirement benefits.

[See Attachment #7 notice of personnel action]

According to OPM, if Mr. Hollingsworth had been removed immediately after his felony conviction, he would have been entitled to an annuity commencing at age 62. Since Mr. Hollingsworth was not removed by DOD after his conviction and was allowed to retire six months after his conviction at age 50, Mr. Hollingsworth immediately began receiving a federal law enforcement yearly annuity of over $60,000. Not including cost of living adjustments, these annuities will total over 750,000.00 for 1996–2008—annuities he would not have received had DCIS management exercised other more reasonable options.

On September 20, 1996, Mr. Hollingsworth's attorney ''waives his right to any further proceedings in connection with the proposed removal due to his retirement.''

[See Attachment #8—Letter from Hollingsworth Attorney dated 09/20/96]

Mr. Mancuso characterizes State Department Investigators as ''Horse's Asses''

On September 14, 1999 the Majority Staff interviewed Mr. Mancuso to review his role in Mr. Hollingsworth's retirement.

Mr. Mancuso claimed that State Department investigators did not brief DCIS on the details of the criminal case against Mr. Hollingsworth until after sentencing. The State Department's failure to share this information in a timely manner was another reason for delay in removal action against Mr. Hollingsworth. Mr. Mancuso characterized State Department investigators in this case as ''Horses' Asses.''

DCIS Agent Tedesco keeps DCIS management informed and complements performance of State Department investigators in the Hollingsworth case

As stated previously, DCIS Agent Tedesco provided all relevant certified court documents to DCIS Director of Operations John Keennan throughout the judicial proceedings against Mr. Hollingsworth. These documents were passed to senior DCIS management as they became available. These documents fully described the criminal conduct for which Mr. Hollingsworth was being prosecuted. Agent Tedesco described his relationship with State Department investigators as ''excellent,'' resulting in a timely, accurate, and professional flow of information between the two law enforcement agencies. Agent Tedesco refutes any assertion that DCIS management was not informed during any part of the judicial process.

DOD Inspector General Eleanor Hill orders Mr. Hollingsworth to be removed ''as soon as legally possible''

Eleanor Hill was the DOD Inspector General during the Hollingsworth criminal procedures. On September 21, 1999, Eleanor Hill stated to the Subcommittee Majority Staff that shortly after Mr. Hollingsworth confessed, she had ordered IG personnel, including Mr. Mancuso, ''to remove Hollingsworth as soon as legally possible.''

DOD Inspector General Eleanor Hill was unaware of several decisions by Mr. Mancuso regarding Mr. Hollingsworth

Ms. Hill stated she was unaware that DCIS management initially refused to allow State Department investigators a consent search of Mr. Hollingsworth's government computer.

Ms. Hill stated she was unaware that Mr. Mancuso endorsed an outstanding evaluation of Mr. Hollingsworth after his confession to criminal conduct.

Ms. Hill stated she was unaware that Mr. Mancuso wrote a letter as an Assistant Inspector General on official stationary to the sentencing judge on Mr. Hollingsworth's behalf.

Hollingsworth Case—Attachments

1. Sentencing Memorandum filed in U.S. District Court, dated 06/04/96
2. State Department Investigative Time line
3. Subcommittee interview of State Department Special Agent O'Brien
4. Timeline provided by DOD 7/27/95–9/20/96
5. U.S. District Court Criminal Docket
6. DCIS Proposal for Removal
7. Notice of Personnel Action
8. Letter from Mr. Hollingsworth's attorney waiving right to appeal removal
9. Copy of 5 U.S.C. 7513
10. DOD IG Regulations on Disciplinary and Adverse Action Page 7
11. DOD General Counsel memo dated 3/14/96
12. OPM response to subcommittee request
13. Evaluation of Mr. Hollingsworth dated 08/18/95.
14. Government's motion to exclude Defendant's Proposed Psychiatric Testimony
15. Memorandum of Linda Martz dated 02/07/96
16. Motion to Dismiss Indictment
17. Opposition to Defendant's Motion to dismiss
18. Memorandum of Linda Martz dated 03/13/96
19. Letter to Judge Ellis written by Mr. Mancuso on behalf of Mr. Hollingsworth dated 04/29/96
20. Rules of Criminal Procedure 11(a)(1)
21. Plea Agreement dated 03/15/96

WALINSKI: CRIMINAL INVESTIGATOR, DCIS INTERNAL AFFAIRS

Mr. Matthew A. Walinski worked at the Defense Criminal Investigative Service (DCIS) as a criminal investigator (GS–1811) from August 1987 through 1998. Since January 1999, he has been employed as a criminal investigator (special agent) in the Office of

the Inspector General at the Department of the Treasury. His assigned duties at the Treasury Department include investigating employee misconduct and fraud. Although Walinski was promoted to the grade of GS–14 at DCIS in August 1991, he accepted a reduction in grade to GS–13 at the Treasury Department. He told the Subcommittee on September 8, 1999 that he left DCIS because he was informed by the DCIS Director Keenan that his goal of becoming a manager was unattainable.

DCIS Internal Affairs

In June 1999, the Subcommittee received a complaint from a former DCIS agent that Walinski had falsified official reports of investigation while employed at DCIS. The complaints about the falsification of reports by Walinski relate to investigations he conducted while assigned to DCIS' Program Review and Analysis Directorate. This office is known informally as ''internal affairs.'' Walinski was assigned to internal affairs from August 1991 until July 1994.

Throughout Walinski's tour of duty in the office of internal affairs, the unit was headed by Mr. Larry J. Hollingsworth. As Director of internal affairs, Hollingsworth held a key position in DCIS's organizational structure—along with the Director (Mancuso), Deputy Director (Dupree), and the Director of Operations (Keenan). Though important internal affairs was a small office. It normally consisted of three investigators (Hollingsworth, Bonnar, and Walinski). However, the office could be augmented—as needed—with special agents from the field.

Hollingsworth directed the DCIS office of internal affairs from April 1991 until his retirement in September 1996, according to a document provided by the IG's office. That Hollingsworth was technically listed as the director of internal affairs until his retirement in September 1996 defies understanding, since Hollingsworth was convicted of a felony (18 USC 1001) in March 1996 and sentenced to 30 days in jail on the weekends in June 1996.

The authorities, who conducted the investigation (Bureau of Diplomatic Security) of Hollingsworth's criminal activities, believe Hollingsworth committed about 12 overt acts of fraud between October 1992 and April 1994. The 12 alleged overt acts of fraud committed by Hollingsworth were perpetrated while he was the director of DCIS' office of internal affairs. Hollingsworth's criminal conduct while director of internal affairs must inevitably raise questions about the overall integrity of the work performed by this office while Hollingsworth was director.

Mr. Thomas J. Bonnar was the Assistant Director of Program Review. Bonnar was Mr. Walinski's immediate supervisor.

While Hollingsworth was in charge of the day-to-day operations of the office of internal review, the DCIS Director, Mr. Donald Mancuso, exercised overall management control of all internal investigations. As DCIS Director, Mancuso was the person chiefly responsible for the conduct of internal inquiries. His position description (DDES0466) states under ''Major Duties,'' paragraph (1): Mancuso ''provides staffing and direction for the conduct of internal investigations, as needed.'' Once allegations were received about potential misconduct by DCIS agents, Mancuso and the Deputy DCIS Director, Mr. William Dupree, would usually decide if an inquiry would be conducted, and what its scope would be. As a rule, those decisions were reached in consultation with Hollingsworth.

Mancuso and Dupree would normally receive periodic briefings or status reports on each internal investigation still in progress. If a problem arose during an inquiry, Mancuso and Dupree would know about it. When Walinski completed his report of investigation, it would usually be forwarded up the chain of command by Hollingsworth to an Administrative Review Board (ARB). The ARB then made recommendations. Either Mancuso or Dupree would review those recommendations and make the final decision on what—if any—disciplinary action was needed.

While assigned to DCIS' office of internal review, Walinski was tasked to complete about 30 ''administrative inquiries'' concerning allegations of misconduct by DCIS agents. The complaints about the falsification of his reports pertain to two ''administrative inquiries'' conducted by Walinski in 1993 and 1994 as follows: (1) the tax fraud case involving Special Agent (SA) William G. Steakley—Administrative Inquiry 91; and (2) Stolen gun case involving Special Agent (SA) Stephen J. Johanson—Administrative Inquiry 108.

The purpose of this portion of our review was to assess the validity of the allegations against Walinski and to search for the answers to three questions: (1) Did Walinski falsify his reports on the Steakley and Johanson cases? (2) If Walinski falsified reports, did senior management at DCIS know about it? And (3) If DCIS management knew about it, did management take appropriate corrective action?

To answer the three questions, the Majority Staff examined all pertinent General Counsel, IG, and U.S. Office of Special Counsel (OSC) files, including reports of investigations and E-mails. The staff also conducted a number of separate interviews.

The Case of Mr. Steakley

On May 11, 1993, Walinski opened the tax evasion case against Steakley. This was Administrative Inquiry 91. It was opened ''based on information that SA Steakley made misleading statements to the DCIS payroll support activity regarding his actual place of residence in an apparent effort to circumvent his state income tax obligations.''

[See Attachment 1—page 1 of Report of Investigation (ROI)]

The foundation for Walinski's ROI on the Steakley tax fraud case was his interview with a payroll specialist at Bolling AFB, Washington, D.C.—Mrs. Nancy Gianino. At the time, Gianino was responsible for handling all DCIS payroll matters. Walinski's official witness interview report, dated June 1, 1993, states that Gianino was interviewed at Bolling AFB on May 21, 1993 ''concerning her knowledge of the payroll deductions of SA Steakley.''

Gianino Interview

Since the Gianino interview is such a crucial piece of evidence in evaluating the accuracy of Walinski's reports, it is quoted here in its entirety:

''Mrs. Gianino said that sometime in late November 1991 she received a letter from SA Steakley which instructed her to discontinue payroll withholding on SA Steakley's salary by the Commonwealth of Virginia. After receiving the letter, which is appended as attachment 1, she contacted SA Steakley via telephone and he informed her that he was being transferred and had, in conjunction with his transfer, established residency in the State of Tennessee. At the time she thought it was strange that an employee who lived and worked in Virginia could move his residency to another state, but because SA Steakley told her he was being transferred in December 1991 she was not concerned. On December 11, 1991, Mrs. Gianino changed SA Steakley's state tax code from Virginia to Tennessee. Mrs. Gianino stated that very shortly after her discussions with SA Steakley she became very ill and was off work for an extended period of time. Because of her illness she was unable to follow-up concerning SA Steakley and his move as would be her normal practice. Normally, Mrs. Gianino makes sure that state income taxes are withheld from the state where the individual's duty assignment is located, especially a state as strict as California.

In the Spring of 1993, after her return from the extended illness, Mrs. Gianino started to reconcile the payroll records for the Defense Criminal Investigative Service. During this reconciliation she reviewed and compared the permanent duty station location for each employee from their Notification of Personnel Action Standard Form 50; the state code of each employee utilized by the Air Force for deductions for state income taxes; and the current mailing address for each employee. She then discovered that SA Steakley was permanently assigned to California, had a state tax code for Tennessee, and a mailing address in Virginia. Mrs. Gianino stated that she brought this discrepancy to the attention of DCIS management as the Air Force considers this situation to be unacceptable under applicable payroll guidelines.

Mrs. Gianino said that in retrospect she felt that both SA Steakley's letter and the subsequent telephone call were vague and very misleading.''

[See Amendment 1, Witness Interview/Gianino]

DCIS Contacts State Tax Authorities

Based on the information provided by Gianino, DCIS officials, including Walinski and Hollingsworth, contacted the departments of taxation in the states of California and Virginia to determine whether Steakley had unpaid income tax liabilities in either state. In addition, they contacted the State of Tennessee to determine whether Steakley was a resident of that state.

DCIS made repeated attempts to obtain information on Steakley's tax obligations in California and Virginia. Letters were sent to the tax authorities in both states on July 27, 1993, July 30, 1993 and December 2, 1993. The letters were followed up by telephone calls.

Access To Tax Records Blocked

In a memo dated December 23, 1993, Walinski reported that he was unable to obtain any information from Virginia on Steakley's tax liabilities. Walinski reported:

On December 22, 1993, an official in Virginia's Department of Taxation informed DCIS: The Commonwealth of Virginia will not acknowledge or provide documentation to generic tax liability issues unless the writer of the correspondence is the Commonwealth of Virginia taxpayer . . . . . Per Commonwealth of Virginia Statute the information in question could not be released to DCIS because DCIS was not the taxpayer in question.''

[See Amendment 1, Contact Report with Department of Taxation, Commonwealth of Virginia]

In an E-mail message to his supervisor, Bonnar, on July 8, 1994, Walinski reported that identical restrictions applied to access on individual tax liability data in California. Walinski reported:

On May 5, 1994, California tax authorities informed DCIS: By law, California can not release any information concerning an individual taxpayer without a court order or a release from the individual in question.''

[See Attachment 1, Contact Report with California Franchise Tax Board]

DCIS Continues to Pursue Tax Data

Even though DCIS was prohibited by state law from obtaining information on Steakley's state tax liabilities, DCIS Director Mancuso and Hollingsworth pressed

Walinski to find a way to obtain that information.

During an interview on August 24, 1999, Hollingsworth reacted strongly to the suggestion that DCIS lacks authority to obtain information on Steakley's unpaid state tax liabilities. He insisted that DCIS had all the authority it needed to get the job done. He said: ''I could have done that investigation.'' Both Mancuso and Hollingsworth were formerly employed criminal investigators at the Internal Revenue Service.

Mancuso's E-mail to Hollingsworth on July 7, 1994 demonstrates something more than a passing interest in the Steakley tax evasion case. Mancuso's message conveys a sense of urgency on the need to obtain Steakley's state tax data. It also seems to suggest that DOD legal counsel may have advised DCIS not to pursue tax fraud charges against Steakley. Mancuso made this request:

''Please copy me on all transmittals between our office and the states of California and Virginia relative to Mr. Steakley's taxes. It has been a ridiculous amount of time since you told me that we were waiting to hear back from them. At the time of our last discussion I directed you to document your contacts so that I could refer to them if some quick action did not ensue. I've spoken to OGC [Office of the General Counsel] and I think I can get their support despite Perkul [Deputy General Counsel, Washington Headquarters Services] and crew.''

''I'd also like to start making phone calls to the two states and finding out what they're doing with our information.''

[See Attachment 1, E-mail from Mancuso to Bonnar and Hollingsworth]

When asked by an independent DOD investigator, Mr. Greg McClelland, why DCIS would pursue tax charges against Steakley when prohibited by state law from obtaining that information, Mancuso replied: ''We'll pursue anything that goes to the integrity of the agent.''

[See Attachment 2, Greg McClelland interview, March 13, 1997, p. 35]

Mancuso's reply to McClelland's question in March 1997 suggests that he may have known that DCIS lacked authority to gain access to Steakley state tax records. During an interview on September 14, 1999, Mancuso provided a completely different answer to essentially the same question. He was asked why DCIS would pursue charges against Steakley in an area—individual state tax obligations—where it had no authority or jurisdiction to operate. He claimed ignorance. He replied: ''I did not know that DCIS was not authorized access to individual state income tax data.''

Walinski Complains about Pressure on Tax Data

One day after Mancuso's E-mail to Hollingsworth—July 8, 1994, Walinski complained about the pressure from Mancuso to his supervisor, Bonnar. In this E-mail, Walinski stated:

''I do not understand what he [Mancuso] wants us to do. . . . Without a release from Steakley, which both he and his attorney(s) stated will not be provided or a court order of some kind there is nothing else that I can do. I am sorry!''

[See Attachment 1, Walinski E-Mail to Bonnar]

Steakley's Tax Attorney Responds

DCIS attempted to interview SA Steakley's tax accountant/lawyer, Mr. John T. Ambrose, but Steakley refused to waive attorney-client privilege, and Mr. Ambrose refused to be interviewed. However, after further discussion, Steakley's tax attorney provided DCIS with a letter addressing various tax issues bearing on the potential charges against his client. The letter was dated February 22, 1994 and hand delivered to Dupree. Mr. Ambrose stated:

''For tax year 1992, based on a determination that Mr. Steakley was a resident of Tennessee, I prepared three (3) state income tax returns for the Steakleys, one resident state income tax return for Virginia and two (2) nonresident state income tax returns for Virginia and California. In determining how to complete those returns, I reviewed the tax instructions published by the respective state tax agencies and consulted with personnel at those agencies.''

[See Attachment 3]

Tennessee Residency

A DCIS records check in Tennessee did show that SA Steakley owned two homes in the state; was registered to vote there and, in fact, voted in the November 1992 general elections; and applied for and received a state driver's license. Mr. Walinski's report of investigation contains the general guidelines in Tennessee tax law that are used as the standard for determining whether a person can claim they are a resident of the state. According to the information contained in Walinski's report, Steakley appears to meet most of the state residency requirements.

No Proof of Tax Fraud

At the conclusion of Walinski's investigation, DCIS had no credible evidence or proof that Steakley had unpaid tax liabilities in either California or Virginia.

In our interview on September 8, 1999, Walinski acknowledged that his report of investigation on the tax evasion case against Steakley was inconclusive and unsubstantiated.

Walinski characterized the tax fraud case against Steakley as ''an unresolved case.'' The investigation had serious shortcomings: ''We couldn't nail him,'' Walinski said. Walinski's inconclusive findings are not apparent in his report. In fact, the report suggests DCIS had an airtight case against Steakley. Walinski also claims Mancuso and Dupree were aware of the flaw. Despite these known deficiencies, Walinski said that he was ''not surprised'' to learn that the ARB Board had subsequently recommended that Steakley ''be removed from his position at DCIS'' for failing to meet his state tax obligations—a recommendation based on Walinski's incomplete report. ''That's just the way DCIS did things,'' he said.

In our interview on September 14, 1999, Mancuso contradicted Walinski's assertion that management knew the tax case against Steakley was weak. Mancuso insisted that he was not aware of the lack of credible evidence to support tax evasion charges that were eventually brought against Steakley. He said: ''I didn't know about that.''

Decisions on Tax Investigation Questioned

The staff does not understand why Mancuso and Dupree decided to pursue the tax evasion charges given the prohibitions in place that effectively blocked access to Steakley's state tax records. If DCIS believed that this matter needed further investigation, it should have referred the matter to an external organization that had the authority and jurisdiction to examine those records and determine if Steakley had unpaid tax liabilities. In the absence of that information, the tax evasion charge would be unjustified.

ARB Board Recommends Removal

The DCIS ARB met on February 7, 1994 to consider the Steakley tax evasion case.

In a memo dated March 7, 1994, the ARB recommended that SA Steakley ''be removed from his position with DCIS for violating Executive Order 12674.'' The Board concluded that ''SA Steakley has a tax liability to the State of California and he took overt steps to avoid paying this tax from December 1991 through February 1993.'' The Board's report was signed by James J. Hagen, Special Agent in Charge.

[See Attachment 4, page 2]

Tax Fraud Charges

On August 4, 1994, after reviewing the ARB's recommendations, DCIS management issued Steakley a ''Notice of Proposed Suspension.'' The notice was signed by Mr. John F. Keenan, Director of Investigative Operations. Mr. Keenan was also previously employed by the Internal Revenue Service as a special agent. He is the Director of DCIS today.

Mr. Keenan rejected the ARB's recommendation to remove Steakley. Instead, he proposed that SA Steakley be ''suspended without pay for fourteen (14) calendar days.'' The proposed suspension was based on: (1) SA Steakley's failure to pay income taxes in the states of California and Virginia; and (2) SA Steakley's failure to comply with Executive Order 12730 [Section 101, paragraph (1)] that requires employees to pay federal, state, and local taxes—''that are imposed by law.''

[See Attachment 5, page 1]

In presenting their case against Steakley, both Mr. Keenan and the ARB relied heavily on Walinski's reported interview of Gianino. Key portions of that interview were incorporated in both memos. For example, after reviewing the communications between Steakley and Gianino in 1991 about payroll deductions—as summarized in Walinski's report, Keenan's memo cites her alleged reconciliation of DCIS payroll records as the event that triggered the whole investigation:

''In the spring of 1993, during a reconciliation of payroll records for DCIS, it was discovered that you were permanently assigned to California, had a state tax code for Tennessee, and a mailing address in Virginia. This discrepancy was brought to the attention of DCIS management as the Air Force considers this situation to be unacceptable under applicable payroll guidelines.

[See Attachment 5, page 2]

Adjudication—Charges Dropped

On October 25, 1994, Mancuso's deputy, Dupree, informed Steakley that the tax fraud charges against him would be dropped.

In a memo addressed to Steakley, Mr. Dupree attempted to provide an explanation for his decision to drop the charges:

''I have considered the written response submitted by your representative, Mr. Luciano Cerasi, as well as the oral response presented by you and Mr. Cerasi on October 20, 1994. Based on the information you provided concerning the filing date of October 15 for the state of California, I have decided that the charges are not substantiated. Therefore, it is my decision to overturn the proposal to suspend you for 14 days.''

[See Attachment 6]

Dupree's explanation seems to suggest that the charges were dropped because the California's state tax filing deadline had not yet arrived. His explanation is difficult to comprehend. Senior DCIS officials had consistently claimed that Steakley's misconduct was ''an integrity issue.'' For example, in his memo dated August 4, 1994, Keenan told Steakley:

''I find you have violated the trust placed in you as a employee of the OIG [Office of the Inspector General].''

[See Attachment 5, page 3]

It very difficult to reconcile Dupree's explanation for dropping the charges with the questions raised about Steakley's integrity—particularly since Dupree's memo was signed ten days after the California filing deadline had passed.

FLEOA's Allegations Against Walinski

During the adjudication process on tax fraud charges, Steakley was represented by an attorney with the Federal Law Enforcement Officers Association (FLEOA), Mr. Luciano A. Cerasi.

As Steakley's defense counsel, Cerasi directed a 10-page letter to Dupree in response to the proposed notice of suspension issued to Steakley in August 1994. Cerasi's letter was hand-delivered to Dupree on September 15, 1994. Cerasi argued that ''the proposed adverse action against SA Steakley must be rescinded due to a lack of preponderant evidence to support the charges.''

In offering a spirited defense of his client, Cerasi, who represents rank and file agents, also raised explosive allegations about the accuracy of the investigative report underlying the tax evasion charges. He alleged that Walinski's report contained ''false, misleading, and fabricated investigative material.''

Cerasi alleged that Walinski had ''fabricated the interview in another [Johanson] case.'' He alleged that Walinski ''completely fabricated the results of his interview with Mrs. Nancy Gianino.'' He referred to Walinski as ''management's pit bull.'' He said Walinski was ''willing to fabricate investigative information to destroy the career of a subject of an investigation.'' Cerasi urged Dupree to re-open the case and re-investigate the entire matter.

[See Attachment 7, pages 2 and 3]

Cerasi's allegations about Walinski's report on the Steakley case in September 1994 followed allegations and complaints, which surfaced two months earlier, about Walinski's report on the Johanson stolen gun case. The Johanson case is discussed in the next section of this report.

Steakley's Request for Re-Investigation

On October 20, 1994, both Cerasi and Steakley were given an opportunity to present an oral response to the tax evasion charges. During the oral rebuttal session in Dupree's office, Steakley followed up on Cerasi's written request for a ''reinvestigation of this whole Walinski file.'' Steakley requested ''an internal investigation of SA Walinski's actions.'' Steakley stated once again ''he had proof that SA Walinski had fabricated the results of the administrative inquiry involving his state income taxes.''

[See Attachments 8, page 1]

Steakley's ''Proof''

The ''proof'' referred to by Steakley was a taped telephone conversation he had with Gianino on September 8, 1994 about Walinski's reported interview of her on May 21, 1993. This tape was subsequently provided to and transcribed by the DOD IG, and a copy of the transcription is located in the files of the U.S. Office of Special Counsel (OSC).

The Majority Staff reviewed the tape transcription in the OSC files.

Gianino's statements on this tape appear to indicate that Walinski fabricated the entire Gianino interview. Steakley read her Walinski's report of interview. She said that every statement in Walinski's report, which was attributed to her, was ''not true.'' She never had an extended illness, and her leave records would prove it. She said Walinski made several visits to her office to examine Steakley's file. She gave him the file, and he took notes from the file. [Walinski probably made these visits in March or April 1993 when checking Steakley's time and attendance records during the investigation of Steakley's accident with a government vehicle in Administrative Inquiry 86]. At the conclusion of the tape, Gianino said: ''Walinski came over here with his badge and puts false accusations in his report. How am I ever going to trust anybody coming over here [from that office] again.''

[See Attachment 2, Telephone Conversation between William G. Steakley and Nancy Gianino, September 8, 1994—Tape Transcription, page 78]

DCIS Rejects Request for Re-Investigation

Except for what appears to be an exchange of perfunctory phone calls in 1995, requests for an independent review of Walinski's report were largely ignored—and finally dismissed—by senior DCIS management. Another three years would pass before Steakley's allegations about Walinski would be subjected to an independent review.

IG Request for Independent Review

The independent review was triggered by a series of letters from Steakley to Ms. Eleanor Hill, DOD IG, and to Senator Fred Thompson. These letters were dated February 9, 1996 and March 12, 1996. In these letters, Steakley renewed his allegations that ''Walinski and Hollingsworth had ''prepared fabricated reports.'' They had ''falsely accused him of tax fraud,'' he alleged. These letters also put a new twist on the allegations. Steakley now alleged that ''Walinski stated directly that the entire matter was directed by Mancuso and Dupree.''

[See Attachment 9, Steakley letters to Hill and Sen. Thompson multiple pages]

DOD IG Refers Case to PCIE

Since Steakley's allegations were ''longstanding in nature and involve a number of individuals in various parts of the IG organization,'' Hill concluded that her office was not capable of conducting ''an objective internal investigation of the allegations.'' She said it simply was ''not feasible.'' Consequently, on May 23, 1996, she referred the entire matter to the President's Council on Integrity and Efficiency (PCIE) for further review.

[See Attachment 10, Hill's letters to PCIE and Senator Thompson, May 23, 1996, page 1]

PCIE Response

On October 16, 1996—five months after Hill's request was made, the PCIE returned the case to the DOD IG ''for appropriate handling,'' because Steakley's complaints concerned IG employees—not the IG herself. [Attachment 10, PCIE letter to Hill, page 2] Following another request from the DOD IG on February 20, 1997, the Integrity Committee of the PCIE agreed to review Steakley's allegations. In her final request, Hill again expressed frustration over her inability to conduct an independent review: ''Our attempts to conduct an impartial internal inquiry have been hampered by the increasing number of senior managers who have recused themselves as a result of the growing allegations, including the Director [Mancuso] of the office which would be investigating this matter internally.''

[See Attachment 10, PCIE letter to Hill, October 16, 1996]

Case Referred to OSC

On June 3, 1997, the case was finally referred to OSC for investigation.

[See Attachment 10, Hill memo to PCIE, February 20, 1997; OSC letter to DOD IG, June 3, 1997; IC letter to PCIE, January 8, 1999, page 2]

OSC Report and Conclusions

On July 21, 1998, the OSC completed a report on Steakley's allegations about senior DCIS officials. The OSC report focused primarily on prohibited employment practices and not whether Walinski had falsified official reports on investigation.

Despite a mountain of evidence pointing to a number of unresolved issues, the OSC notified DOD in December 1998 that Steakley's allegations ''were without merit,'' and the case was closed in January 1999.

[See Attahcment 10, IC letter to PCIE, January 8, 1999. page 2.]

McClelland's Investigation

On March 27, 1996—two months before Hill initially referred the matter to the PCIE, she attempted to launch an investigation of Steakley's allegations. This investigation continued while Hill worked with PCIE/OSC to assume responsibility for the investigation.

The job was assigned to the IG's Office of Departmental Inquiries—an organization that is separate from DCIS—and more independent, though both offices report to the same boss—the DOD IG. Mr. Dennis Cullen was initially assigned as the case action officer on April 2, 1996, but Mr. Greg McClelland was placed in charge of the internal inquiry on December 12, 1996.

Between January and June 1997, McClelland conducted a very extensive set of interviews. The staff has examined the transcripts of McClelland's interviews and believes that McClelland conducted a very thorough and credible investigation. He gathered all pertinent information needed to prepare an independent report on Steakley's allegations. While McClelland actually began drafting a report, it was never finalized. Once the OSC agreed to assume jurisdiction over the case on June 3, 1997, McClelland was directed to terminate his effort and transfer all materials to the OSC. Even though McClelland's report was never finalized, his files contain important information bearing on the allegations against Walinski—information that was completely ignored by OSC.

McClelland's Investigative Plan

The guidance given to McClelland was clear. He was to investigate all the allegations raised by Steakley, including ''alleged false statements'' by a DCIS investigator. On the tax fraud inquiry, he intended to address this issue: ''Did DCIS fabricate an ethics violation [suspected tax fraud] against Mr. Steakley?'' He planned to ''review applicable regulations'' to determine whether ''officials acted within the scope of their authority.'' His investigative plan called for questioning Gianino first. If warranted—based on information obtained from Gianino, he would then interview other DCIS officials as follows: Walinski, Hollingsworth, Dupree, and Mancuso.

[See Attachment 11, page 3]

Gianino

On January 28, 1997, McClelland interviewed the key witness—Gianino—regarding the contents of Walinski's reported interview of her on May 21, 1993. In this interview, Gianino disputes and contradicts virtually every point raised in Walinski's report.

Walinski's report declares that the interview took place at Gianino's Bolling AFB office on May 21, 1993. Gianino, by comparison, testified that she had just one telephone conversation with Walinski; that he called her; but she was unable to remember when the call took place.

McClelland questioned Gianino about each individual part of Walinski's report of interview. McClelland read her each sentence in Walinski's report. In each case, he asked Gianino: ''Is that accurate?'' And in each case, Gianino replied: ''I did not call him.'' Or ''that's not a true statement.'' Or ''that's not true.'' Or ''I did not do that.'' On the question of sick leave between 1991 and 1993, Gianino testified: ''I had maybe a couple of hours of sick leave. But I was not out for a long extended period of time due to illness.''

[See Attachment 2, Gianino interview, 1/28/97, pages 4–12]

Gianino's Leave Records

The staff examined Gianino's leave records for 1991 through 1993.

In his report of investigation, Walinski states: ''Very shortly after her discussions with Steakley [in late 1991], she [Gianino] became very ill and was off work for an extended period of time. Because of her illness she was unable to follow-up concerning Steakley. . . . In the Spring of 1993, after her return from the extended illness, Mrs. Gianino. . . .''

Walinski's assertions about Gianino's absence from her Bolling AFB office due to an extended illness are inconsistent with her official leave records.

Those records show: (1) Gianino used 54.5 hours of sick leave in 1992; and (2) she used .5 hours in the first half of 1993 and a total of 15 hours of sick leave for the balance of the year.

[See Attachment 12]

Walinski

McClelland then interviewed Walinski—first on February 14, 1997—and then again on June 6, 1997. After questioning Walinski at length about other parts of his report of investigation on the Steakley tax fraud case, McClelland confronts him with the conflict between his report and Gianino's sworn testimony:

''Okay. Well, Mr. Walinski, we have a problem. And the problem is that Ms. Gianino controverts almost everything you say about her in here [Walinski's report], under oath, on tape.''

[See Attachment 2, Walinski interview, 2/14/97, page 62]

Walinski replies: ''Okay, Well,—In here somewhere we will find the information that she provided to me, and it will be in her handwriting.''

[See Attachment 2, Walinski interview, 2/14/97, page 62]

Walinski never produced any documentation from Gianino that had a bearing on the contents or accuracy of his May 21, 1993 report of interview.

Then McClelland moved to the key question about sick leave. Walinski's report contains a number of references to how Gianino ''became very ill and was off work for an extended period of time.'' McClelland asked this question:

''Okay. Ms. Gianino states that she was not out sick from December 1991 to spring 1993, and the records substantiate that.''

[See Attachment 2, Walinski interview, 2/14/97, page 65]

McClelland asked Walinski to explain the discrepancy between his report and Gianino's official leave records. Here is Walinski's response:

''Well,—well, the remembrance that I have is, folks, is that she was out sick, and I remember everybody at headquarters telling me that . . . I think she had cancer really bad, ovarian cancer, and she would come into work and work a couple of hours, and then she would go home.

[See Attachment 2, Walinski interview, 2/14/97, pages 14 and 65]

Under intense probing, Walinski admitted that the Gianino interview may not have taken place on May 21, 1993—as stated in his official report. He told McClelland: ''I interviewed her [Gianino], like, two or three times.'' McClelland responded to this revelation with another question: ''Why isn't that reflected in the ROI [report of investigation]?'' Walinski's response helps to shed light on his investigative methods. He told McClelland that his reports do not necessarily reflect the way he conducted the investigation:

''Well, because one day I went over there and she told me this information. Another day I went over there and I interviewed her and I was interviewing her about another, you, something else.''

[See Attachment 2, Walinski interview, 2/14/97, pages 63–65]

During the second interview on June 6, 1997, McClelland attempted to determine if there was any concrete linkage between Walinski's handwritten notes of the Gianino interview and the final version of the interview that accompanied his report of investigation. McClelland determined that there was essentially no linkage. Not one important fact contained in the final report could be traced back to Walinski's handwritten notes. And Walinski agreed with McClelland's assessment. The Majority Staff examined those notes and agreed with McClelland's assessment. Walinski's notes are undated and cannot be considered proof that the interview took place. McClelland asked Walinski about the disconnect. Walinski replied:

''I don't write down verbatim what people tell me, so I remember she just said she was out . . . I just write down highlights in my notes . . . Just enough that jogs my memory so I can remember what people said.''

[See Attachment 2, Walinski interview, 6/6/97, pages 28, 37, 69]

Staff Interviews Gianino

Gianino was interviewed on June 30, 1999 regarding her knowledge of Walinski's May 21, 1993 witness interview report.

At the beginning of the interview, the Majority Staff gave her an opportunity to examine Walinski's report. She had never seen it. She re-confirmed all the facts previously developed by McClelland. Point-by-point, she characterized Walinski's report as completely false. She stated that she was never interviewed by Walinski but may have spoken to him briefly on the telephone. She noted that he was even mistaken about her GS grade. Walinski reported that she was a ''GS-12 Payroll Specialist'' at the top of the witness interview form. In fact, Gianino was a GS-7 Payroll technician on the date of the interview. When asked why she thought Walinski fabricated his report of interview, she offered this opinion:

''DCIS was out to get Steakley. They wanted to destroy him''

On August 20, 1999, the staff conducted a follow-up interview with Gianino. At that time, she was shown portions of Walinski's sworn testimony to McClelland on February 14, 1997 where he attempted to explain the discrepancy between his report and her leave records. In this testimony, Walinski fabricated a new reason for his May 1993 report about her extended absences from the office. He suggested that ''she had cancer really bad, ovarian cancer.'' Gianino was shocked that Walinski had made such a statement under oath. She said: ''that statement is not true. I have never had ovarian cancer.''

Staff Interviews Walinski

On September 8, 1999, the Majority Staff questioned Walinski about the accuracy of his May 21, 1993 interview of Gianino. During the meeting, he attempted to offer evidence that his reported interview of Gianino did, in fact, take place.

This is the explanation offered by Walinski:

Since Steakley had refused to cooperate with the investigation and provide his state income tax returns, DCIS could not prove that Steakley had failed to meet his state tax obligations. This shortcoming was painfully evident when the ARB Board met to review the Steakley case. Walinski's report did not answer the key question: What were Steakley's total unpaid tax liabilities? Exactly how much did he owe Virginia and California?

The ARB wanted that question answered. So Walinski was called into the ARB Board meeting and directed to get the missing information. Walinski claims he contacted Gianino on the telephone and then went over to her office at Bolling AFB. At this meeting, she provided the earnings data that he needed to calculate Steakley's unpaid state taxes for the Board. He said there were detailed notes containing the tax calculations. He further stated that some of those notes were in Gianino's handwriting, and they prove that the Gianino interview actually took place as he reported.

[See Attachment 14]

Walinski offered essentially the same explanation to McClelland in testimony on February 14, 1997, and June 6, 1997.

Walinski's explanation does not stand up to scrutiny for three reasons:

First, Walinski's handwritten notes that he purportedly took during his interview of Gianino on May 21, 1993 do not contain tax calculations or references to them.

Second, The final version of Walinski's report of interview with Gianino on May 21, 1993 contains no reference to income tax calculations.

Third, since the ARB Board did not meet on the Steakley tax evasion case until February 17, 1994—nine months after the reported Gianino interview, and since Walinski claims the tax calculations were prepared in response to a question that arose during the Board meeting, the notes on tax calculations—if they ever existed—could not constitute proof that the Gianino interview took place as reported by Walinski.

McClelland's Evaluation of Walinski

McClelland was interviewed on August 4, 1999 to elicit his impressions on the irreconcilable differences between the testimony of Walinski and Gianino. This is what McClelland stated:

''While he was unable to document willful intent on the part of Walinski, he characterized Walinski's conduct and reporting in the Steakley tax fraud case as egregious. Walinski was a sloppy investigator. His report contained widespread discrepancies and inaccuracies.''

Response by Management

This portion of the reports addresses the question of how DCIS management responded to allegations that Walinski had fabricated his official report on the Steakley investigation:

Did DCIS management make an honest attempt to review the allegations about Walinski's report?

The Majority Staff was unable to find any evidence to suggest that DCIS management attempted to evaluate complaints that Walinski had falsified his report on the Steakley tax fraud case.

Examples of how DCIS management responded to the allegations are cited below.

Bonnar

In a memo dated November 15, 1994, Bonnar—Walinski's immediate supervisor—reported that he had received a telephone call from Steakley the previous day—November 14, 1994. Bonnar reported that Steakley asked if Dupree had launched an investigation into Mr. Walinski's actions. Steakley had requested the investigation during his meeting with Dupree on October 20, 1994. Bonnar told Steakley: ''there are no pending internal administrative inquiries involving your case.''

In the memo, Bonnar also reported on Steakley's overall impressions of DCIS' commitment to reviewing Walinski's actions:

''It was clear to him [Steakley] that Mr. Dupree had decided not to act on his request for an investigation.

[See Attachment 8, page 2]

Hollingsworth

According to the OSC report, Dupree asked Hollingsworth to be certain that Walinski's

report was consistent with the facts, and Hollingsworth assured him that there was no truth to Steakley's allegations:

''Dupree asked Hollingsworth to look into the [Walinski] matter and recalled that he was assured by Hollingsworth that the documents were in support of the information . . . and found the allegation was not correct.''

[See Attachment 15, pages 15 and 22]

OSC's assessment does not seem to square with the facts.

First, there is no evidence to suggest that Hollingsworth investigated the accuracy of Walinski's report. Quite to the contrary, a memo signed by Hollingsworth on November 23, 1994 suggests that he had no plan to do it—unless Steakley provided more specific information Hollingsworth stated:

''Based on a review of the allegations made by SA Steakley, no action will be taken until he provides written documentation.''

[See Attachment 16]

Use of the words ''written documentation'' seems important, since Steakley had taped a conversation with Gianino on September 8, 1994 suggesting that Walinski had falsified the interview. Testimony by Dupree, which is cited in the next section of this report, indicates that management knew about the tape but refused to consider it as a useful piece of evidence.

Secondly, it seems like Hollingsworth thought he knew the answer to the key question surrounding the accuracy of Walinski's report—Gianino's leave status. In his November 23, 1994 memo, Hollingsworth indicated that he had already made up his mind on this core issue:

''The one issue that can be readily resolved is the issue of Mrs. Nancy Gianino's leave status. Contrary to SA Steakley's allegations, her lengthy leave was well known at DCIS since she handles the payroll at Bolling AFB for DCIS.''

[See Attachment 16]

An independent interview of Gianino and review of her leave records would have quickly resolved all the issues surrounding Walinski's report of investigation. However, Hollingsworth failed to pursue this line of inquiry.

Dupree

On March 13, 1997, McClelland interviewed Mancuso's Deputy, Mr. William Dupree, about his knowledge of and reactions to allegations that Walinski had falsified his report on the Steakley tax evasion case.

Initially, Dupree flatly denied having any knowledge about Walinski's fabricated reports. For example, McClelland asked: ''Were you aware of factual inaccuracies in the [Walinski] ROI [report of investigation]?'' Dupree's answer: ''No.'' McClelland's follow-up question: ''You weren't?'' Dupree: ''No.''

[See Attachment 2, Dupree interview 3/13/97, page 37]

Fortunately, McClelland pressed Dupree about the issue and succeeded in making Dupree admit he was aware of the problem. From his response, it seems very clear that he never had any intention of examining the accuracy of Walinski's reports.

Question

McClelland asked him if he remembered if the subject of ''false information in Walinski's ROI [report of investigation] came up at a meeting in his office [Meeting with Steakley and Cerasi in October 20, 1994].''

[See Attachment 2, Dupree interview, 3/13 97, page 38]

This was Dupree's response:

Response

''Oh, Gary [Steakley] was making all kinds of statements about things. Yeah. The falseness, you know, allegedly there are false statements. But you know, he didn't provide any facts or information.''

[See Attachment 2, Page 38]

Question

McClelland then began questioning Dupree about his response to allegations that Walinski had falsified the Gianino interview. McClelland asked this question: ''Did you take any action to look into that?''

Response

''Other than to assure Larry [Hollingsworth], 'Let's make sure that what we're doing is something we can support and back it up and everything. But Gary didn't offer anything. He said he had a tape [interview with Gianino on September 8, 1994]. And I'm saying, Gary, you know, I need more than that.''

[See Attachment 2, Page 39]

Question

McClelland turned to the crucial follow-up question: ''Did anybody call Gianino and find out, find out what she had actually said?''

Response

Dupree's response is very revealing. It suggests he never had any intention of checking out the questions about the inaccuracy of Walinski's report. He said:

''I have no reason to question the statement that she provided to Walinski, an agent, no different than the statement I provide to you.''

Question

McClelland responded with this question: ''Well, you have an allegation from Gary [Steakley]?''

Response

''Allegation. With what? He is the person that's being investigated. I had reason to believe Gary [Steakley] was making a speculative allegation without any evidence other than he doesn't like Matt Walinski.''

Final Exchange

McClelland closed this segment of the interview with another question:

''If you were to find out that there were inaccuracies in the ROI [report of investigation] with regard to—.''

However, before McClelland could complete the sentence, Depuree jumped in with this assertion: ''I would do the similar thing we previously did.'' So McClelland asked: And what's that? Dupree's response: ''Investigate it.''

[See attachment 2, page 41]

The Majority Staff's puzzled by Dupree's response to the last question. He had allegations—from FLEOA and Steakley—about inaccuracies in Walinski's investigation report. Why did he fail to investigate them?

Hollingsworth provided a partial answer to this question during an interview on August 24, 1999. Hollingsworth asserted:

''DCIS gave absolutely no credence to Steakley's allegations.''

Mancuso

McClelland also interviewed DCIS Director Mancuso on March 13, 1997.

Mancuso's responses to McClelland's questions clearly indicate that he was aware of the allegations about Walinski's report.

This is Mancuso's response to McClelland's question about his knowledge of inaccuracies in Walinski's report of investigation and the Gianino interview:

''I know that there was a question that Gary [Steakley] had as to where Matt [Walinski] had gotten the information. I remember something on that * * * * But it was—what I heard of complaints, I heard from Gary. I'm not aware from Bill [Dupree] or from anyone else that there was anything inaccurate in Matt's report.''

[See Attachment 2, Mancuso interview, 3/13/97, page 27]

McClelland then asked Mancuso: ''What did you hear from Gary [Steakley] on that [inaccuracies in Walinski's report]?

In replying to this question, Mancuso indicates that Steakley's allegations about Walinski's report were coming into his office and being relayed to him through secondary sources:

''I would walk down the hall and somebody would say Steakley called me up last night, and he was saying that Matt Walinski had not attributed remarks properly in some way and that kind of thing.''

[See Attachment 2, Mancuso interview, 3/13/97, page 26]

McClelland follow up by asking: Did he [Steakley] tell you anything about a woman over at payroll called Nancy Gianino? Mancuso's reply suggests that he was not only familiar with Gianino's name, but more importantly, he heard about her from sources other than Steakley. It also suggests that Mancuso had knowledge of the core problem with Walinski's report. This is Mancuso's reply: ''I've heard that from other people. I did not hear it from Gary.'' Mancuso's response to that question prompted McClelland to suggest that Mancuso had ''some idea of the allegations that Steakley was making with regard to Gianino?'' Mancuso admitted that he did but again claimed that it was coming from Steakley.

[See Attachment 2, Mancuso interview, 3/13/97, pages 26–27]

Mancuso's response to these questions is consistent with the assessment presented by the OSC in its report of July 21, 1998 on the Steakley case, OSC concluded:

''Mancuso was aware of the conflict between the Walinski interview of Gianino and Steakley's version of the interview. However, Mancuso was not aware of any manufactured information relating to Steakley.''

[See Attachment 15, page 22]

Mancuso Ignored Walinski Problem

To summarize, Mancuso admits that he knew about Steakley's allegation that Walinski had fabricated the Gianino interview, but no one in DCIS, including Dupree, had ever suggested to him that there was any truth to those allegations. Clearly, management did not give the allegations much credibility. As Hollingworth put it: ''DCIS gave absolutely no credence to Steakley's allegations.''

It seems very clear from Mancuso's testimony that he never considered the need to investigate the allegations. The apparent lack of curiosity on the part of the most senior criminal investigator at the DOD IG is astonishing. As a result, the allegations about Walinski were never examined, and no corrective action was taken.

THE CASE OF MR. JOHANSON

Walinski initiated this inquiry—Administrative Inquiry 108—on February 23, 1994 after DCIS headquarters, including Bonnar, Hollingsworth, and Nancuso, were officially notified that a DCIS-issued weapon was stolen from the home of Special Agent Stephen Johanson, who was assigned to the Van Nuys Resident Agency office in California.

Stolen Gun

DCIS had issued Johanson two weapons: (1) a 9mm Sig Sauer that he normally carried; and (2) a smaller Smith and Wesson revolver for undercover work.

Sometime between February 14 and February 16, 1994, while Johanson was participating in the execution of a search warrant in San Diego, his home in Palmdale was burglarized. The burglars stole a number of items valued at about $10,000.00, including jewelry and the loaded Smith and Wesson revolver. The stolen revolver was issued to Johanson because of his involvement in an

undercover operation the previous year. Since an earthquake had severely damaged the Van Nuys Resident Agency office and made it insecure—and no Class-5 safe was available there, Johanson kept this weapon stored on the top shelf of his bedroom closet under a pile of clothing. When he returned from San Diego on February 16th and discovered the burglary, he immediately notified the local police authorities and DCIS management of the break-in and loss of the service weapon.

Walinski's Report

Walinski reported that he conducted the following interviews of DCIS officials assigned to the Los Angeles Field Office: (1) Richard Smith, Special Agent in Charge (SAC)—March 4, 1994; (2) Robert Young, Assistant Special Agent in Charge (ASAC)—March 2, 1994; (3); Jon Clark, Group Manager—March 2, 1994; (4) Michael R. Shiohama (RAC)—March 2, 1994; (5) Michael D. Litterelle, Firearms Coordinator—March 3, 1994; and (6) Stephen J. Johanson, Special Agent—March 3, 1994. While all the interviews were conducted during a 3-day period, March 2–4, it took Walinski more than five weeks to sign, date, and finalize these interviews. They are actually dated April 12–13, 1994.

Based on these interviews, Walinski reached four important conclusions. These conclusions are contained in his report of investigation: First, Johanson's supervisors—RAC, SAC, and ASAC—never authorized Johanson to have the undercover weapon issued to him. Second, has supervisors did not know that Johanson had the undercover weapon until it was reported as stolen. Third, Johanson informed the Group Manager (Clark) on February 10, 1994 that he had the undercover weapon, and the Group Manager ''immediately'' instructed him to turn it in at the next firearms range training session scheduled for March 7, 1994. And fourth, neither Johanson nor the Firearms Coordinator could remember who authorized Johanson to have the undercover weapon.

[See Attachment 1, Report of Investigation, Synopsis]

Walinski completed this inquiry on April 15, 1994. On that date, Hollingsworth forwarded Walinski's report of investigation and appended interviews to Dupree ''for whatever action you deem appropriate.''

[See Attachment 1, letter of transmittal]

ARB Recommendation

The Administrative Review Board (ARB) met on April 21, 1993 to consider Walinski's report on the Johanson case.

After reviewing Walinski's report, the ARB reached these conclusions: (1) Johanson stored a government-issued weapon at his residence while on ''extended leave or non-duty status for 5 or more consecutive days'' in violation of Section 3807.4 of the DCIS Special Agent's Manual; and (2) Johanson was not authorized to posses two issued weapons. The ARB also concluded that Johanson failed to return the weapon at the conclusion of the undercover operation and failed to sign the proper forms when the weapon was issued to him.

The ARB recommended that Johanson be suspended for 10 days without pay. The ARB's report, dated May 9, 1994, was forwarded to the SAC, Los Angeles Field Office, Richard R. Smith, for consideration.

[See Attachment 2, page 1]

Charges

On June 24, 1994, Smith issued a Notice of Proposed Suspension to Johanson. Smith recommended that Johanson be suspended without pay for 8 calendar days: for failing ''to sign for, properly secure, and return a weapon issued to you for an undercover assignment.''

Smith's memo to Johanson recited many facts taken directly from Walinski's report of investigation and accompanying interviews. These same facts were subsequently disputed—and formally challenged—by many of the agents involved.

Smith's decision to discipline Johanson seemed to hinge on one piece of disputed information developed by Walinski. This was a meeting that allegedly occurred in the Van Nuys Resident Agency office on February 10, 1994. At this meeting, Walinski claimed that Group Manager Jon Clark informed Johanson that he would not be assigned to an ongoing undercover operation known as ''Skyworthy.'' According to Walinski, Johanson then informed Clark that he still had an undercover weapon. At this point, Walinski states, Clark told Johanson to bring the weapon to the next firearms qualification session to be held on March 7, 1994. This particular assertion appears in Walinski's interviews of Young, Clark and Johanson as well as in his report of investigation. The February 10, 1994 meeting is the centerpiece of Smith's Notice of Proposed Suspension. Smith used this piece of information as the basis for charging Johanson with failing to return a weapon issued to him for undercover work. This is what Smith said about the alleged February 10, 1994 meeting attended by Clark:

''On February 10, 1994, you [Johanson] were informed by Group Manager Clark that you would not be part of the undercover operation relocated from 50PX [Phoenix]. When you told Group Manager Clark that you still had a second weapon in your possession he instructed you to bring it to the next 50LA range qualification on March 7, 1994. Before you could return the weapon, your home was burglarized and the gun was stolen.''

[See Attachment 3, page 1]

Rank and File Challenge Walinski's Report

The first formal complaint about Walinski's report on the stolen gun case was initiated on the day Johanson received Smith's Notice of Proposed Suspension—July 6, 1994—and saw the erroneous information about the February 10th meeting.

The first complaint was embodied in a sworn statement signed jointly by Supervisory Special Agent Jon Clark and Mr. Thomas J. Bonnar—Walinski's immediate supervisor at DCIS Headquarters in Washington. While this statement was signed on July 19, 1994, it concerned a telephone conversation between Johanson and Clark on July 6, 1994. The joint Clark/Bonnar statement clearly suggests that Walinski falsified information in this report of investigation on the stolen gun case.

Portions of the joint statement are summarized below.

After receiving Smith's Notice of Proposed Suspension on July 6, 1994, Johanson called Jon Clark on the telephone to express alarm and confusion over a statement in Smith's memo that was attributed to Clark. Johanson read the following statement to Clark:

''That he [Johanson] was instructed by Group Manager Jon Clark on February 10, 1994, that he was not going to be participating in the undercover operation at LAFO [Los Angeles Field Office] and that he should return the undercover weapon he had at the next firearms qualification.''

[See Attachment 4, page 1]

Johanson informed Clark that he had no recollection of receiving this instruction from Clark and asked Clark if he could recall giving it. This is how Clark responded to the news:

''I was astonished and confounded by this statement. I asked him to re-read the statement. I said I have no idea how or why that statement was in the letter. I said I had no recollection of providing him those instructions nor had I any recollection of saying that to anyone. Moreover, I was not aware of the fact that he had an undercover weapon.''

[See Attachment 4, page 1]

Clark told Johanson that he would check his calendar for the date of February 10, 1994 to verify whether he was at the meeting in the Van Nuys Resident Agency office as reported by Walinski. In checking his calendar, he discovered that he was not in the Van Nuys office that day. Instead, he spent that entire day at the El Segundo Resident Agency office on other business with both Young and Smith [Smith and Young later confirm the fact. Smith and Young were the SAC and ASAC in the Los Angeles Field Office].

Following the phone conversation with Johanson, Clark contacted Smith and Young in the Los Angeles Field Office to inquire about the origins of the assertions in Smith's letter to Johanson. Smith advised Clark that the information on the February 10, 1994 meeting was extracted for Walinski's ''internal'' report of investigation (ROI). At that point, Clark assured Smith that ''he had not provided a statement on this investigation.'' Clark asked Smith to double-check the ROI ''to be sure that was no mistake.'' Smith re-checked the ROI and ''advised me that there was a DCIS Form 1, Report of Interview of me.''

Clark denied again that he was ever interviewed by Walinski. This is what he said to Smith:

''I was perplexed. I advised SAC Smith that I had no recollection of this report being taken and asked that I be permitted to read it to refresh my recollection. He said no. . . . I informed SAC Smith that these were facts that I not only did not say—but information I did not know. . . . I could not corroborate the statement attributed to me in SAC Smith's letter to Johanson. . . . I cannot believe I made those statements since I had no specific knowledge of those facts. The statements appear to be factually inaccurate, and therefore would not have been stated by me.''

[See Attachment 4, page 1–2]

About a week later—on July 5, 1994—Mr. Michael D. Litterelle [Firearms Coordinator] informed Clark that he had a copy of Walinski's ROI, and Litterelle actually gave Clark a copy of Walinski's form 1 Witness Interview of Clark. After reading it, Clark stated:

''I read the interview and found it contained statements that were attributed to me that I knew were untrue. . . . I never made this statement.''

[See Attachment 4, page 3]

The exact distribution of the joint Bonner-Clark statement is unknown. However, since it was ''solicited'' by Bonner, the Assistant Director of internal affairs, it would not be unreasonable to assume that Hollingsworth—the director—and other DCIS managers knew about it and actually saw it.

Supervisor Challenges Walinski's Report

Several weeks after the Bonnar/Clark complaint, another formal complaint about Walinski's report was submitted to Hollingsworth's office. This one was signed on August 4, 1994 by ASAC Young in the Los Angeles Field Office. It contained a detailed, line-by-line commentary on inaccuracies in Walinski's interview of Young along with highly critical comments on Walinski's interviews of Clark and Shiohama on the same date [March 2, 1994].

Young stated that he was ''somewhat shocked'' after reading Walinski's report. He stated that Walinski's report contained statement that were misleading, ''wrong''

and ''inaccurate.'' He said that Walinski attributed statements to him that he never made.

After alluding to the ''significant discrepancies'' in Walinski's interview of Clark, Young reports that Shiohama had advised him that ''there were subject areas in the report or statements that he had not discussed with SA Walinski. Shiohama stated that the last paragraph of his interview was totally inaccurate.'' However, both Young and Shiohama insisted that portions of their interviews appeared to accurately reflect what they had said to Walinski.

Appeal to Management About Walinski's Reports

In asking Hollingsworth to examine the discrepancies in Walinski's report, Young makes an appeal to senior management on behalf of rank and file agents:

''I am not trying to cause you or Matt [Walinski] problems. But in this situation I am caught in the middle. I have agents that are in the process of being disciplined and based on what I know now the recommended disciplinary actions may be based on incomplete and inaccurate information. The agents throughout the Field Office know this and are now finding fault with management for not taking some type of action to have this situation re-evaluated.''

[See Attachment 5, Note from Young to Hollingsworth]

Young's report was officially moved up the chain of command—to the top. Young forwarded it to Bonnar who, in turn, submitted it to Hollingsworth, and Dupree—Mr. Mancuso's Deputy. However, during an interview on September 14, 1999, Mancuso denied having knowledge of the allegation that the Clark interview was fabricated until recently or August 1999.

FLEOA Letter

Young's formal complaint to Hollingsworth about Walinski's inaccurate reports was followed almost immediately by a formal complaint from another source.

During the adjudication phase of the stolen gun case, Johnson was represented by an attorney with the Federal Law Enforcement Officers Association (FLEOA), Luciano A. Cerasi—the same lawyer who represented Steakley in the tax evasion case.

In a letter to Dupree, dated August 8, 1994, regarding the Johanson case, Cerasi raised the possibility that Walinski had falsified his report of investigation. Cerasi's letter contains this explosive allegation:

''It is questionable whether SA Walinski even interviewed SA Clark.''

Cerasi also raised questions about why five weeks elapsed between the dates on which Walinski conducted the disputed interviews and the final dates on the interview reports. Cerasi suggested that this delay violated DCIS policy requiring that witness reports be completed and finalized within 3 working days of the investigative activity. Cerasi characterized Walinski's report as a ''shabby investigative effort'' that would only serve to demonstrate to other agents that in DCIS ''justice is unattainable.''

[See Attachment 6, pages 3–4]

Attempted DCIS Coverup Possible

Initially, DCIS management may have tried to put a lid on the groundswell of adverse information on Walinski's reports that began to surface in mid-1994. First, there were complaints from rank and file agents—Clark, Young, and Shiohama—in July and August 1994. Those were followed immediately by the FLEOA letter. A month later—in September 1994—FLEOA filed a second complaint with management. This one concerned allegations that Walinski had fabricated the Gianino interview.

The sworn statement signed jointly by Bonnar and Clark alludes to a possible attempt by DCIS management to keep a lid on all the complaints about Walinski's reports:

''On July 8, 1994, ASAC Young advised me that HQ [DCIS Headquarters] had decided that they would wait and not raise the issue regarding my discrepant interview unless it was raised by SA Johanson. I [Clark] expressed concern that this may be released to agents and that they may conclude that I fabricated this story and it would therefore discredit me. I was informed that the information was controlled in its release.''

[See Attachment 4, pages 2–3]

On August 9, 1999, the staff contacted the DOD IG with this question: ''Who at DCIS made this decision?'' The following answer was provided on September 30, 1999: ''We have not been able to determine who, if anyone, made this alleged decision.''

Re-Investigation

As a result of all the complaints. DCIS management eventually made a decision to launch a re-investigation of the Johanson stolen gun case. The re-investigation was conducted by SA Timothy L. Shroeder from August 10, 1994 until October 5, 1994.

Unfortunately, the re-investigation was conducted in a complete vacuum—as if the entire matter had never been investigated by Walinski.

It is easy to understand why DCIS needed to go back to square one and re-examine all the facts bearing on the stolen weapon. The second investigation had to be impartial and independent after Walinski was accused of falsifying information contained in the original investigation. At the same time, DCIS management had a responsibility and an obligation to determine whether Walinski had falsified his report—as alleged by rank and file agents. Unfortunately, there was no attempt to reconcile the facts contained in Walinski's report of investigation with the facts developed in the re-investigation. In fact, the agent in charge of the re-investigation—Shroeder—received specific instructions to steer clear of the disputed interviews. Hollingsworth gave him these instructions: The ''new investigation should be conducted without reviewing the results of the previous interviews.''

[See Attachment 7]

Clearly, Shroeder needed to avoid the pitfalls created in first investigation, but management should have assigned another agent to examine the allegations made about Walinski's report. If Walinski bungled his investigation and the case had to be re-investigated, then DCIS management should have determined exactly where and how Walinski's investigation deviated from accepted standards. All the complaints from rank and file agents and the FLEOA attorney required nothing less than that.

New Charges

Based on the re-investigation, Smith recommended that Johanson be suspended without pay for 10 calendar days. Smith's second Notice of Proposed Suspension was dated November 23, 1994. Smith charged Johanson with violating two sections of the Special Agents' Manual: (1) Failing to exercise ''utmost caution'' in storing a firearm at his residence; and (2) Storing a weapon at his residence while away from his assigned office for an extended time.

[See attachment 8, pages 1–2]

In the final notice on suspension, dated February 9, 1995, Durpee suspended Johanson for 3 calendar days, beginning on February 15, 1995.

[See attachment 9]

Need for Investigation Questioned

It's difficult to understand why DCIS would suspend an agent for losing a gun that was stolen from his home during a burglary. The staff checked with other federal law enforcement authorities to determine how similar cases have been handled in the past. Under normal circumstances, they suggested that a routine administrative inquiry would be conducted. Once it was determined that the firearm was stolen during a burglary and the theft was duly reported to the proper authorities, the entire matter would be dropped.

Walinsky ''Disciplined'' for Bungled Investigation

On July 20, 1999 and again on August 4, 1999, Ms. Jane Charters was interviewed regarding her knowledge of personnel actions taken against Walinski in the wake of the bungled Johanson investigation.

Ms. Charters is currently the Director of the Investigative Support Branch at DCIS—the same position she occupied in 1994 during the Johanson and Steakley investigations. She exercises personnel responsibilities in DCIS.

During the first interview of July 20, 1994, Charters stated that as a result of mistakes in stolen gun case investigations, DCIS ''lost confidence'' in Walinski and transferred him out of internal affairs and into her office. In the new position, Walinski was no longer conducting internal investigations. Instead, he was to be responsible for DCIS training, physical fitness and security. Charters also reported that Walinski was issued a letter of reprimand that was placed in his file—a fact that was confirmed by Bonnar during an interview on July 12, 1999.

Walinski's Personnel File

On two occasions in July—July 7th and again on July 23, 1999, the Majority Staff examined Walinski personnel file to determine if the disciplinary actions taken against him for his mistakes in Johanson investigation—as described by Charters and others—were accurately reflected in performance ratings and other personnel actions in his file.

The Majority Staff found no evidence that Walinski was ever disciplined for the failed Johanson gun case. Quite to the contrary, the available evidence suggests Walinski was actually rewarded for what happened.

Here is what the Majority Staff found in his file:

Employee Performance Rating—1993/94

For the rating period August 26, 1993 to March 31, 1994, Walinski received an ''outstanding'' rating.

The outstanding rating applied to the period of time when Walinski conducted two investigations—Steakley and Johanson—where the accuracy of his reports were later questioned. In fact, the rating period included the date—March 2, 1994—on Walinski claims he conducted interviews with Young, Clark, and Shiohama. Those reports of interview were later characterized as false, misleading and inaccurate by the agents involved and the FLEOA attorney. The Gianino interview occurred on May 21, 1993—just prior to the beginning of the rating period, but considerable investigative activity on the Steakley case occurred during his rating period.

The rating officials offered this comment: ''Walinski continues to excel in every aspect of his job. He is a very valued employee of DCIS.'' The outstanding rating was approved by Bonnar and the Director of internal affairs, Hollingsworth, on April 15, 1994—the exact same day that Hollingsworth forwarded Walinski's completed report of investigation on the Johanson case to Dupree.

[See attachment 10]

Incentive Award Nomination—Recommendation

On April 25, 1994, Hollingsworth recommended that Walinski receive a performance award of $1,200.00 to accompany the

''outstanding'' rating he received for the period August 1993 to March 1994—the same period when he conducted witness interviews in the Johanson case that were later characterized as false, inaccurate and misleading.

[See attachment 11]

Previous Cash Award—1993

The form used to recommend the $1,200.00 performance award also noted that Walinski had not received any other performance awards in the preceding 52 weeks. His personnel file indicates otherwise. He received a ''Special Act or Service Award'' of $2,000.00 on May 2, 1993—several weeks before his fabricated interview with Gianino on May 21, 1993.

[See Attachments 11 & 12]

Special Performance Rating—1994

This a special rating given to Walinski immediately before his sudden transfer out of internal affairs and into the Investigative Support Directorate. It was the last rating he received for his work in internal affairs and covered a ''shortened rating period'' of April 1, 1994 through July 2, 1994. This rating period includes the date on which Walinski finalized the report of investigation on the Johanson case—April 15, 1994. The closing date for this reporting period—July 2, 1994—came one day before his move to Charters' office and just four days before the first known written complaint about Walinski's false and inaccurate reports reached DCIS Headquarters in Washington.

Bonnar and Hollingsworth gave him a ''fully successful'' rating, but for unexplained reasons, took over three months to approve it. It was finally signed on October 12, 1994. Walinski's other ratings were approved quickly—within two weeks of the end of the rating period.

[See Attachment 12].

DCIS says the delay was due to ''an administrative oversight.''

Walinski stated August 2, 1999 that this is the rating where ''he took a hit'' for his mistakes in the Johanson case. The language in the performance rating documents seemed to support Walinski's assessment:

''Unfortunately, during this rating period he failed to show due diligence and accuracy in reporting the results of some interviews with regard to one administrative inquiry. This one shortfall in SA Walinski's performance is not typical of the otherwise high quality and professional level of his work.''

[See Attachment 13, pages 3–4]

when Bonnar and Hollingsworth signed this document in October 1994, they had already received the allegations about Walinski's false reports on the Steakley tax evasion case. For that reason, the reference to ''accuracy of reporting'' in just one internal investigation does not appear to square with the facts.

Reassignment

Walinski's personnel records indicate that his transfer from internal affairs to the Investigative Support Branch became effective on July 3, 1994.

[See Attachment 14]

As previously reported, Charters suggested during two interviews that DCIS management ''had lost confidence in Walinski'' as an investigator ''and moved him into her office'' as a disciplinary measure. Charters' description of the reasons behind Walinksi's transfer are consistent with those provided by Mancuso during an interview on September 14, 1999.

Hollingsworth and Walinski, by comparison, provided a completely different set of reasons behind the July 1994 move.

During an interview on August 24, 1994, Holllingsworth suggested that the move was not taken for disciplinary reasons: ''It was for his health.'' He said Walinki ''blew'' the Johnason case because ''he was totally stressed out.'' Hollingsworth feared he might ''have a heart attack.''

Walinski meaintains that the transfer was driven by routine considerations.

During an interview on September 8, 1999, he gave the following reasons for the move: (1) There was an attractive opening in Charters' organization; (2) The opening offered him some growth potential into a management position in the future; (3) He had completed his planned 3-year tour of duty in internal affairs; and (4) He had a plan for addressing the training deficiencies in Charters' Directorate. When asked if there was any other reasons for the move, he said ''No.''

[See Attachment 15, pages 1–2]

Walinski Assigned Inspection Duties

A personnel document, signed by Bonnar and Hollingsworth on October 12, 1994 suggests that Walinski conduct inspections long after he was reassigned to ''training'' in Charters' office. Along with inquiries of employee misconduct, inspections are the main responsibility of the internal affairs office. This document suggests that Walinski continue to perform, work for the internal affairs office—despite his removal from that office. This document shows that Walinski played a leadership role in various inspections as follows:

''He also worked on the preparation for the Los Angeles FO [field office] inspection. Although the Los Angeles FO inspection was conducted after the end of this special rating period when SA Walinski reported to his new assignment in the Investigative Support Directorate, he returned to assist with the LA inspection and played a significant role by leading inspection efforts in the DCIS offices in Phoenix, Tuscon, Albuquerque, and Honolulu as well as Los Angeles. He worked independently on these inspections without the need for any close supervision.''

[See Attachment 13, page 3]

During an interview on September 14, 1999, Mancuso expressed surprise that Walinski led the inspection of the Los Angeles field office after his reassignment:

Mancuso said he had no knowledge of Walinski's involvement in the inspection of the LA Field Office after his transfer. He would be surprised and concerned if true, and said he would be checking on the accuracy of that information.

Decision on Inspection Duties Questioned

In an information paper provided on September 30, 1999, Mancuso admitted that Walinski was involved in the inspection of the Los Angeles Field Office. However, Mancuso maintains Walinski was kept on the team only ''to train his replacement'' and ''did not participate in the actual inspection.'' Mancuso's statement conflicts with the personnel document signed by Bonnar, Hollingsworth, and Walinski in 1994 referenced above.

It is very difficult to understand why Walinski would have been assigned to prepare the inspection report on the Los Angeles Field Office in the wake of all the allegations and complaints flowing from the Johanson case. The re-investigation of the Johanson case, which began in August 1944 and was concluded in October 1994, was in progress while Walinski conducted the inspection of the Los Angeles Field Office. That re-investigation was specifically triggered by his disputed interviews of at least three agents assigned to the Los Angeles field Office. Those agents made formal complaints to management about the quality of Walinski's reports. In effect, these agents ''blew the whistle'' on Walinski. Assigning Walinski a leadership role in the Los Angeles Field Office inspection could be viewed as a retaliatory measure, and as such, a very questionable management decision.

Performance Award—1994

On July 24, 1994—exactly three weeks after his transfer from internal affairs into training, Walinski received a cash award of $1,200.00.

[See Attachment 16]

At our meeting with Charters on August 4, 1997, she offered an explanation for the $1,200.00 cash award—in light of Walinski's mistakes on the Johanson case. She suggested that it was given for the rating period August 26, 1993 through March 31, 1994—''before the problem arose over the Johanson gun case.''

Charters' explanation is not supported by the facts. The facts cited below clearly indicate that DCIS management was aware of the complaints about Walinski's report at least three weeks before Walinski received the cash award:

—The rating period for which the cash award was given included the date—March 2, 1994—on which Walinski conducted interviews of agents that were later characterized as false, misleading and inaccurate in rank and file complaints to management;

—Management claims that Walinski was transferred from internal affairs into training on July 3, 1994 as a disciplinary measure for the mistakes he made in the Johanson case. This indicates that management knew about the allegations prior to that date;

—Walinski admitted that he received a reprimand for making ''administrative errors'' in his report on the Johanson case while still assigned to internal affairs—or prior to July 3, 1999;

—Clark informed DCIS management, beginning on July 6, 1994, that Walinski's March 2, 1994 interview of Clark was completely false;

The facts show that the $1,200.00 cash award given to Walinski on July 24, 1994 came at least three weeks after DCIS management had knowledge that Walinski had falsified reports on the Johanson case.

Reprimand

The staff was never able to locate the letter of reprimand that was placed in Walinski's file, nor was the staff able to establish the exact date on which the reprimand was given.

During an interview on July 12, 1999, Walinski's immediate supervisor, Tom Bonnar, stated that he was ''furious'' with Walinski about the Johanson interview statements. He said Walinski ''was verbally and officially reprimanded and a letter was placed in his file.'' Bonnar doubted the reprimand would still be in his personnel file, since it's customary to remove them after a brief period of time.

[See Attachment 17, page 2]

On September 8, 1999, Walinski confirmed that Bonnar had indeed ''handed him'' a ''letter of caution'' for making ''administrative errors'' on the Johanson case, but he could not remember if he kept it for 30, 60, or 90 days. In a telephone conversation on August 2, 1999, Walinski claimed that ''Bonnar told him to destroy it in the shredder after 30 days.''

Walinski also seemed somewhat confused about the actual date of the reprimand. Initially, he suggested that it was dated October 12, 1994. However when it was pointed out that date was the exact day Bonnar and Hollingsworth approved his last performance evaluation for internal affairs, he suggested that October 12, 1994 might have seen the day he destroyed the letter of reprimand. Mr. Walinski seemed certain of one fact: he received the reprimand while still in internal

affairs. This statement is consistent with statements by Charters and Mancuso that the reprimand was issued before July 3, 1994.

[See Attachment 15, page 2]

Walinski's Rebuttal

Walinski has a simple explanation for the inaccuracies in his report of investigation on the Johanson stolen gun case. His explanation was given during testimony to McClelland on February 14, 1997 and confirmed in a telephone conversation on August 2, 1999.

He claims it was a clerical error. In a nutshell, this is his explanation:

''The headers got switched. The wrong headers ended up on the Form 1 interview sheet. I said that one guy said one thing when I said another guy said another thing. This happened when the interviews got typed up. We had a secretary that wasn't a top quality individual. She typed them up wrong. . . . But it was my mistake.''

[See Attachment 18, interview, 2/14/97, pages 74–75, and telephone interview 8/2/99]

During an interview on September 8, 1999, Walinski offered a similar explanation:

''It was an administrative error. I roughed out the form 1 interview reports on my computer and gave my write up to a secretary. The secretary got the headers mixed up and switched some paragraphs.''

[See Attachment 15, page 2]

Walinski's explanation is highly questionable for two reasons: 1) if the Clark interview never took place—as Clark stated, then how could Clark's name end up on a Form 1 ''header'' that was only inadvertently ''switched''? Clark's name not should not have appeared on the radar screen; And 2) Both Young and Shiohama contend that portions of their interviews were true and accurate. If portions of the Young and Shiohama interviews were true and accurate, then how could the incorrect portions of their interviews involved ''switched headers''?

Furthermore, Walinski states that he prepared his write-ups of the interviews on a computer and transferred them to a clerk typist to be finalized. That being the case, a mix up of headers seems improbable.

Walinski rule

Following the Johanson investigation, DCIS management instituted investigative reforms, including the so-called ''Walinski rule.'' Under this rule, all interviews have to be recorded and transcripts reviewed and verified by witnesses.

Management Backs Up Walinski

During an official DOD IG interview by McClelland on March 13, 1997, both Dupree and Mancuso attempted to diminish the significance of the allegations that Walinski had falsified his reports on the Johanson case. They seemed to accept the ''wrong headers'' excuse used by Walinski.

McClelland questioned Dupree on March 13, 1997 about ''Walinski's ability as an investigator'' and problems with regard to ''factual inaccuracies'' in his reports. During the course of that interview, Dupree offered Walinski's ''wrong header'' excuse. This is what Dupree said:

''Matt's [Walinski] probably one of the most capable investigators I know. It wasn't factual inaccuracies. It was in the deliberation of putting a lot of statements together. Unfortunately, some of the comments that were made by individuals were transposed to other individuals. The statements and the facts were absolutely correct. They were just attributed to the wrong person.''

[See Attachment 18, interview, 3/13/97, pages 45–46]

During an interview on March 13, 1997, McClelland asked Mancuso if he ever got ''any word from Bill Dupree about inaccuracies in the report of investigation that Walinski prepared.'' Although McClelland appeared to be asking about the Steakley report, Mancuso's response seems to address the Johanson case. Mancuso also accepted the ''switched headers'' excuse:

''No. Again, I'm a little bit fuzzy because we had one or two instances where Matt [Walinski] on different cases which were in the same area, where Matt had inaccurately attributed certain remarks—had confused witnesses' names in his notes. But I don't recall any inaccuracies involving Steakley. . . . Gary [Steakley] was saying Walinski's responsible for other cases that are now suspect because of inaccuracies. . . .''

[See Attachment 18, interview, 3/13/97, pages 25–46]

Management's Knowledge of Allegations

The testimony given by Dupree and Mancuso to McClelland on March 13, 1997 clearly indicates that senior management at DCIS was aware of the allegations about Walinski's falsified report on the Johanson case.

Rank and file complaints about Walinski's false and misleading reports went right to the top at Headquarters as follows:

—On July 19, 1994, Agent Clark signed a sworn statement, alleging that Walinski had falsified his report [based on complaints received from Johanson on July 6, 1994]; Clark's statement was ''solicited'' and witnessed by Bonnar, the Assistant Director of Internal Affairs and Walinski's immediate supervisor; A document indicates that DCIS headquarters was aware of this complaint on or about July 8, 1994;

—On August 4, 1994, ASAC Young in the Los Angeles Field Office formally complained to Hollingsworth about Walinski's false and inaccurate reports of interview with agents Young, Clark, and Shiohama; Young reports that rank and file agents are ''finding fault with management for not taking some type of action to have this situation re-evaluated;'' Hollingsworth forwarded Young's formal complaint to Mancuso's Deputy, Dupree;

—On August 8, 1994, FLEOA addressed a formal complaint to Dupree, alleging that Walinski falsified his report of investigation;

—On August 10, 1994, management launched a re-investigation of the Johanson case based on rank and file complaints about Walinski's reports;

Mancuso's Knowledge of Allegations

Mancuso's broad responsibilities for internal investigations suggest that he would have been informed immediately of rank and file complaints about the integrity of an ongoing inquiry. Testimony and statements indicate that Mancuso was kept up-to-date on the progress of all ongoing internal investigations. Mancuso's responsibilities as DCIS Director—and the DCIS person chiefly responsible ''for staffing and direction for the conduct of internal investigations''—meant that he would have been informed about the controversy over the Walinski report on the Johanson case and would have been involved in the decision to re-investigate the case and reassign Walinski to Charters' office.

During an interview on September 14, 1999, Mancuso was questioned about his knowledge and awareness of the allegations about Walinski's reports. This is what Mancuso said:

Mancuso admitted that he knew about ''the problems of Walinski's reporting'' on the Johanson case back in 1994, but he contends that he was unaware of the allegations that Walinski had fabricated the Clark interview in its entirety ''until a few weeks ago'' or in August 1999.

Mancuso said that Walinski was given a reprimand and transferred [in July 1994] because of rank and file complaints, of which he was aware, about the credibility of the work being performed by the internal affairs office. He said the ''transfer and reprimand were the culmination of several negative reports on Walinski.'' As a result of these complaints, policy changes—like the need to record and verify interviews—were put in place—and the Johanson case was re-investigated.

Mancuso insisted that he ''did not know about the extent of Walinski's mistakes.'' He claims that as DCIS Director, he normally ''did not get beyond that level of detail,'' though he admitted he got deeply involved with the Steakley case because of the lack of progress in the investigation.

[See attachment 19, page 1]

Decision to Re-Open Case

The directive that re-opened the Johanson case was dated September 23, 1994. This memo suggests that DCIS managers were aware of rank and file complaints about Walinski's report.

The memo states that the Johanson case was re-opened ''after allegations of discrepancies were made concerning the original interviews.'' It also states that Charters and Hollingsworth directed the assigned agent [Schroeder] ''to conduct an independent inquiry concerning the circumstances surrounding'' Johanson's stolen firearm.

[See attachment 7]

Legal Questions about Walinski's Reports

There seems to be a consensus within DCIS that Walinski's reports on the Steakley and Johanson were ''inaccurate.'' DCIS thinking seems to suggest that Walinski's reports might have carelessly deviated from the facts, or he may have misinterpreted a statement. He was just mistaken or careless. Or as Walinski put it, he just made ''administrative errors.''

During an interview on July 12, 1999, Bonnar characterized Walinski's reports this way:

''The statements in Walinski's reports were inaccurate and not falsified.''

[See attachment 2, page 2]

Mr. John Kennan, the current Director of DCIS, was interviewed on August 4, 1999. He indicated that he was well aware of all the adverse information on Walinski's reports in August 1994, but he attempted to minimize the significance of the problem. He said those reports were not a concern because:

''Walinski's inaccurate reports did not affect the outcome of the investigation.''

McClelland offered a similar view in an interview with OSC on November 5, 1997:

''Walinski had been inconsistent and inaccurate in his report on the tax issue (regarding Gianino's testimony) but that it was not harmful. Walinski was just a sloppy investigator.''

[See Attachment 20]

The staff believes that Walinski's reports of interview with Gianino and Clark and his sworn testimony to McClelland regarding these matters in 1997 went far beyond simple factual inaccuracies. The staff believes that Walinski invited or fabricated information contained in those reports for the following reasons:

First, both Gianino and Clark deny that they were ever interviewed by Walinski; they deny making the statements attributed to them by Walinski; and both deny any knowledge of the facts attributed to them by Walinski.

Second, it is possible to independently verify certain inaccuracies in Walinski's reports.

—In Gianino's case, Walinski stated ''very shortly after her [Gianino's] discussions with Steakley she became very ill and was off

work for an extended period of time.'' Walinski later explained that ''she had cancer really bad, ovarian cancer.'' Gianino's official leave records clearly indicate that she had no ''extended illness'' as reported by Walinski. In fact, she was shocked when told that Walinski had testified in 1997—under oath—that she had ovarian cancer. She stated: ''That statement is not true.''

—In Clark's case, Walinski stated that Clark had made statements, which Clark said he never made, at a meeting, which Clark said he never attended. Clark's appointment calendar shows that he did not attend the meeting at the DCIS office identified by Walinski. Instead, he spent that entire day at another DCIS office with two other supervisory agents—Young and Smith—who both subsequently confirmed that fact.

DCIS officials also contend that even if Walinski's reports contained false information, that information was ''not harmful.'' For example, what difference does it make if Gianino did not have an ''extended illness' as reported by Walinski. They argued that the questionable facts generated by Walinski did not affect the outcome of the investigation.

The level of danger or harm caused by a false statement is not a valid standard for determining whether the law was violated.

Under the law—18 USC 1001—a person who deliberately makes false statements could be convicted of a felony and sent to prison for up to five years. The law does not make exceptions for the extent of damage or harm caused by a false statement. In fact, a court decision specifically suggests the false statements need not involve loss or damage to the government [U.S. v. Fern, C.A. 11 (Fla.) 1983, 696 F.2d 1269].

Furthermore, the staff would argue that Walinski's false reports did, in fact, cause damage.

First, Walinski's reports undermined the integrity and credibility of the investigative process at DCIS—the Defense Department's criminal investigative arm.

Second, Walinski's reports damage the reputations of two fellow agents—Steakley and Johanson. Walinski's false reports formed the foundation for charges that were eventually made against both individuals. According to Steakley, those reports caused Steakley and Johanson and their families to incur considerable legal expenses and mental anguish.

Other Cases

During the course of the inquiry into the Steakley and Johanson cases, the majority Staff received allegations from a current and a former DCIS agent that Walinski had falsified reports during two other internal investigations, but the staff was unable to investigate and substantiate those allegations.

Conclusion

Based on a thorough review of all documents bearing on the Steakley and Johanson cases, it is crystal clear that senior DCIS management, including Mancuso, were aware of the allegations about Walinski's witness reports. Although management made certain administrative adjustments in the wake of rank and file complaints about Walinski's reports, management never attempted to determine if those allegations had merit. Management never attempted to reconcile Walinski's reports with the facts. Independent interviews of Gianino and Clark would have quickly established the fact that Walinski had fabricated at least two witness interviews. This very simple step would have led to appropriate corrective action. Instead, the record shows that Walinski was never disciplined. In fact, the record shows that Walinski actually was given a cash award—at least three weeks after management began receiving rank and file complaints about the accuracy of his reports.

Stealkey Case—Attachments

(1) Report of Investigation—Administrative Inquiry 91, May 1993, with witness interviews and other documents

(2) McClelland interviews located in Subcommittee and OSC files; Testimony dates and pages cited; Including tape transcriptions

(3) Letter from Steakley's tax attorney, John T. Ambrose, February 22, 1994

(4) Recommendation of the Administrative Review Board on Steakley case, March 7, 1994

(5) Notice of Proposed Suspension, Memo from Keenan to Steakley, August 4, 1994

(6) Final Decision on Proposed Suspension, Memo from Dupree to Steakley, October 25, 1994

(7) Letter from Steakley's attorney, Luciano A. Cerasi, to Dupree, Received by DCIS ON September 15, 1994

(8) Memo from Bonnar to Hollingsworth on telephone call from Steakley, November 15, 1994

(9) Letters from Steakley to DOD IG Eleanor Hill and Senator Fred Thompson, March 9 & 12, 1996

(10) Exchange of letters between DOD IG Hill and President's Council on Integrity & Efficiency, May 23, 1996 and October 16, 1996; Hill's letter to Sen. Thompson, May 23, 1996; Hill's memo to PCIE, February 20, 1997; OSC letter to Hill, June 3, 1997; IC letter to PCIE, January 8, 1999

(11) Investigative Plan Into Allegations by William G. Steakley, March 27, 1996

(12) Gianino's official leave records for 1991–1993

(13) Memo of interview with Gianino, June 30, 1999

(14) Memo of interview with Walinski, September 8, 1999

(15) OSC Report on Steakley case, No. MA–97–1477, July 21, 1999—Located in Subcommittee files]

(16) Hollingsworth memo for the record, November 23, 1994

Johanson Cast—Attachments

(1) Report of Investigation—Administrative Inquiry 108, April 15, 1994, including witness interviews and other documents

(2) Recommendation of the Administrative Review Board on the Johnson case, May 9, 1994

(3) Notice of Proposed Suspension, Memo from Smith to Johnson, June 24, 1994; acknowledged and signed by Johnson on July 6, 1994

(4) Formal Statement ''signed and sworn'' jointly by Clark and Bonnar, July 19, 1994

(5) Memo from Bonnar to Dupree and Hollingsworth, dated August 9, 1994 transmitting Young's signed statement, dated August 4, 1994, to Johnson

(6) Letter from Johnson's attorney, Luciano A. Cerasi, to Dupree, August 8, 1994

(7) Case Re-Initiation, Memo signed by SA Timothy L. Schroeder, September 23, 1994

(8) Notice of Proposed Suspension, Memo from Smith to Johanson, November 23, 1994

(9) Amendment to Final Decision on Proposed Suspension, Memo from Dupree to Johnson, February 9, 1995

(10) Employee Performance Rating, IG Form 1400.430–2 for 8/26/93 thru 3/31/94

(11) Incentive Award Nomination and Action, IG Form 1400.430–3, for 8/26/93 thru 3/31/94

(12) Notification of Personnel Action, Form 50–B, Special Act or Service Award, 5/2/93

(13) Employee Performance Rating, IG FORM 1400.430–2, for 4/1/94 thru 7/2/94

(14) Notification of Personnel Action, Form 50–B, Reassignment, 7/3/94

(15) Memo of interview with Walinski, September 8, 1999

(16) Notification of Personnel Action, Form 50–B, Performance Award, 7/24/94

(17) Memo of interview with Bonnar, July 12, 1999

(18) McClelland interviews located in Subcommittee and OSC files combined with Subcommittee interview on August 2, 1999

(19) Memo of interview with Mancuso, September 14, 1999

(20) OSC (Shea) interview, November 5, 1997

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, October 1, 1999.

Hon. CHARLES E. GRASSLEY,
Chairman, Subcommittee on Administrative Oversight and the Courts, Committee on the Judiciary, United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing regarding the inquiry of your Subcommittee into certain personnel cases in the Defense Criminal Investigative Service (DCIS). Your letter of September 27, 1999, invited the Office of Inspector General (OIG) to provide a written response based on my interview by your staff on September 14, 1999. I understand that this response will be attached to any final report that you may issue.

In your letter you state that I was allowed the opportunity to review the factual findings of your staff. I respectfully disagree with that assertion. I have not been given an opportunity to review any written work product, nor did your staff orally share any draft findings. Rather, our meeting consisted of an interview in which I responded to a lengthy series of questions. In light of these facts, the OIG would again request the opportunity to review your final written report and provide comments prior to its release.

During my nine-year tenure as Director, DCIS, I supervised approximately 500 investigative personnel at any given time and the conduct of nearly 10,000 defense fraud investigations. I have devoted my life to public service and have proudly served for over 27 years. I am committed to integrity in leadership within the Inspector General community and proud of my investigative and management record.

Given my limited understanding of the scope of the inquiry of your Subcommittee, I will in this letter attempt to furnish you with further insight as to the matters in question. My objective in this matter is to provide you with the information you need to accurately assess these cases. Specifically, I will address actions with respect to the handling of DCIS internal review matters involving Special Agents (SA) Hollingsworth, Steakley and Walinski.

SA Larry Hollingsworth: SA Hollingsworth was employed by the DCIS from November 1983 until his retirement in September 1996. I first met SA Hollingsworth some time after his hiring during which time we were peers, I as Special Agent in Charge (SAC) of the New York Field Office and he as SAC of the Chicago Field Office.

In July 1995, I identified a photograph in a law enforcement journal as possibly that of SA Hollingsworth. The unidentified individual was being sought by the Department of State (DoS) relative to the filing of a false passport application. I immediately contacted the DoS and reported my suspicions to them and later assisted the DoS in arranging a surveillance of SA Hollingsworth in anticipation of a search of his home. Following the search, he was immediately barred from the worksite and kept from any active service with this organization. Although he was arrested in July 1995, he was not indicted until January 1996. During those seven months, while the DoS investigation was ongoing, SA Hollingsworth was allowed to use sick leave to the extent verifiable by

medical authorities and accumulated annual leave. Subsequent to his indictment, he was suspended without pay and denied further use of leave. He entered a conditional guilty plea in March 1996 and was sentenced in June 1996.

During this time period I was involved in a variety of administrative matters in which SA Hollingsworth contested actions proposed by his supervisor. I, as Director, DCIS, at the time was his second level supervisor and acted as deciding official in each of these matters. These administrative actions were separate and distinct from the investigation by the DoS and prosecution by the Department of Justice.

My next involvement with this matter began when SA Hollingsworth appealed a Notice of Proposed Removal issued by his supervisor. On August 23, 1996, his attorney requested an extension until September 13, 1996, to file a written response and notified us of his intent to make a subsequent oral presentation. As deciding official, I granted this request consistent with past DCIS practice and, to preclude further delay, I simultaneously scheduled the oral presentation for September 23, 1996. However, four days prior to his scheduled oral presentation, SA Hollingsworth retired.

SA Hollingsworth was provided the same due process afforded to all other DCIS special agents in the form of a review by the Special Agents Administrative Review Board and reasonable time to prepare a written and oral response to a Notice of Proposed Removal. Variation from past practice would have been unwarranted and inconsistent with my experience as a deciding official in dozens of disciplinary proceedings.

SA Hollingsworth's criminal conduct was both inexcusable and inexplicable. His violation of law was totally out of character and inconsistent with his job performance and lengthy career. I noted this same observation in a letter to the sentencing judge as I went on record describing SA Hollingsworth's job performance.

Throughout this process, the OIG was provided advice by personnel and legal experts. The course of action taken in this case was one of the several available options permitted by Federal personnel guidelines.

SA Gary Steakley: SA Steakley began his employment with DCIS in December 1987. From that time until he entered the Worker's Compensation program in February 1993 as a result of a traffic accident involving a Government vehicle, he worked in a variety of positions within DCIS. As Director, DCIS, I selected him for several positions and promoted him to his last job as manager of a DCIS investigative office in California.

Subsequent to his vehicle accident, SA Steakley was the subject of several adverse personnel and disciplinary actions. With the exception of ensuring that internal reviews proceeded in due course, my actions with respect to SA Steakley were taken as the deciding official in these cases. In addition, as Director, I proposed to involuntarily transfer him in order to ''backfill'' his management billet after his accident. In this case, the then Deputy Inspector General acted as deciding official.

SA Steakley was treated fairly by DCIS, although he has repeatedly alleged that he was subjected to prohibited personnel practices. His allegations have been reviewed in various venues, including the Office of Special Counsel who, in December 1998, closed their file and declined to pursue the case further.

SA Matthew Walinski: SA Walinski held a variety of positions in DCIS from his initial hiring in August 1987, until his transfer to the Office of Inspector General, Department of the Treasury, earlier this year. Your staff has questioned the accuracy of several reports of interview prepared by SA Walinski to include a report dealing with SA Steakley. It is my understanding that your staff perceives that allegations concerning SA Walinski were not pursued with the same tenacity shown in the SA Steakley investigations.

I was not aware of many of the facts alleged in this matter until reviewing documents in response to the inquiry of your Subcommittee. I did, however, have a general concern at the time regarding the handling of internal investigations. As a result, I directed that the internal review process be restructured so as to ensure that all future interviews be taped and transcribed to preclude any further dispute as to reporting. I was also appraised by my deputy that SA Walinski was being transferred from his duties to a position in the DCIS Training Branch. It is my understanding that SA Walinski received a downgraded appraisal as a result of his poor performance as well as a written letter cautioning him as to the importance of accuracy in his reporting.

In closing, I hope that my insights have provided you the information you need to accurately assess these cases. I appreciate your assurance that this letter will be included in any report that may be issued on this topic and look forward to an opportunity to review your draft report.

Sincerely,

DONALD MANCUSO,
Acting Inspector General.

Mr. GRASSLEY. Mr. President, I think it is imperative that Congress continue to send the strongest possible signal only that the highest standards and integrity are acceptable among our law enforcement and watchdog communities, the more we will ensure that outcome. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until 2:15 p.m. today.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GRAMS).

AFRICAN GROWTH AND OPPORTUNITY ACT—Continued

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2379

(Purpose: To require the negotiation, and submission to Congress, of side agreements concerning labor before benefits are received)

Mr. HOLLINGS. I call up my amendment No. 2379 and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2379:

At the appropriate place, insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the amendment has been read in its entirety. It is very brief and much to the point. It is similar to the North American agreement on labor. When we debated NAFTA at length, there was a great deal more participation and attention given. In these closing days, everyone is anxious to get out of town. Most of the attention has been given, of course, to the appropriations bills and the budget, and avoiding, as they say, spending Social Security after they have already spent at least $17 billion, according to the Congressional Budget Office.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HOLLINGS. Mr. President, I had a very interesting experience with respect to labor conditions in Mexico prior to the NAFTA agreement. I wanted to see with my own eyes exactly what was going on. I visited Tijuana, which is right across the line from southern California.

I was being led around a valley. There were some 200,000 people living in the valley, with beautiful plants, mowed lawns, flags outside. But the 200,000 living in the valley were living in veritable hovels; the living conditions were miserable.

I was in the middle of the tour when the mayor came up to me and asked if I would meet with 12 of the residents of that valley. I told him I would be glad to. He was very courteous and generous.

I met with that group. In a few sentences, summing up what occurred, the Christmas before—actually around New Year's—they had a heavy rain in southern California and in the Tijuana area. With that rain, the hardened and crusted soil became mushy and muddy and boggy, and the little hovels made with garage doors and other such items started slipping and sliding. In those streets, there are no light poles and there are no water lines. There is nothing, just bare existence.

They were all trying to hold on to their houses and put them back in order. These particular workers missed a day of work. Under the work rules in Mexico, if you miss a day of work, you are docked 3 days. So they lost 4 days' pay.

Around February, one of the workers was making plastic coat hangers—the industry had moved from San Angelo to Tijuana. They had no eye protection whatsoever. The machines were stamping out the plastic, and a flick of plastic went into the worker's eye. The

workers asked for protection and could not get any. That really teed them off.

It came to a crisis on May 1 when the favorite supervisor, a young woman who was expecting at the time, went to the front office. She said she was sick and would have to take off the rest of the day. They said: No, you are not taking off the rest of the day; you are working. Later that afternoon, she miscarried, and that exploded the movement of these 12 workers. They said: We are not going to stand for this anymore. We are going to get some consideration of working conditions and pay.

The workers chipped in money and sent two of the folks up to Los Angeles to employ a lawyer. They discovered that when the plant moved from San Angelo to Mexico, they filled out papers showing how the plant was organized and that they had a union and swapped money each month, but no shop steward or union representatives ever met with them. They never knew anything about a union.

Under the work rules of the country of Mexico, if one tries to organize a plant once one is already organized, then that person is subject to firing, and all 12 of them were fired. They lost their jobs, their livelihoods. That is what the mayor wanted me to know and understand. They were out of work.

My colleagues talk about the immigration problem. If I had any recommendation for the 12, I would say: Sneak across the border—don't worry about it—and find work in California or South Carolina or some other place because they could not get a job any longer in the country of Mexico.

That concerned me, and I have followed the work conditions. That is one of the reasons with NAFTA, while I opposed it, I wanted to be sure we had the side agreements. The side agreements were established. The work center is in Dallas. The Secretary of Labor meets with them. They are trying to work on this problem.

I have references to some of the working conditions in El Salvador.

On March 13, 1999, five workers from the Doall factory, where Liz Claiborne garments are sown, met with a team of graduate students from Columbia University who were in El Salvador conducting a study of wage rates in relation to basic survival needs.

A few days later, all five workers were fired. Doall's chief of personnel simply told them: You are fired because you and your friends cried before the gringos, and the Koreans don't want unionists at this factory.

So much for workers' rights in that Liz Claiborne plant.

There are 225 maquila assembly factories in El Salvador, 68,000 workers sending 581 million garments a year to the United States worth $1.2 billion. Yet there is not one single union with a contract in any of these maquila factories because it is against the law; it is not allowed.

This is Yolanda Vasquez de Bonilla:

I was fired from the Doall Factory No. 3 together with 17 others on August 5, 1998.

From the beginning, the unbearable working conditions in the factory impressed me a great deal, which included obligatory overtime hours every day of the week, including Saturdays and sometimes Sundays. On alternate days, we worked until 11 p.m., and some weeks we were obligated to work every day until 11 p.m. at night. We were mistreated, including being yelled at and having vulgar words used against us . . . humiliated for wanting to use the restrooms, and being denied permission to visit the Salvadoran Social Security Institute for medical consults.

The highest wage I received, working 7 days a week and more than 100 hours, was 1,200 colones (U.S. $137). Nevertheless, I accepted all this that I have briefly narrated since I have two children who are in school and I must support them.

They go on to tell similar stories time and again about different workers at that plant in El Salvador.

With the limited time I have, I will reference the United States firm in Guatemala City of Phillips-Van Heusen.

Van Heusen closed its Camisas Modernas plant in Guatemala City just before its 500 workers were to receive their legally mandated year-end bonuses and go on a three-week break.

That is typical of what they do if they get any kind of benefits at all. Just at the end of the year, when they are supposed to get their bonuses, they go down and close the plant.

Unionist and former Zacapa municipal worker Angel Pineda was ambushed and shot to death March 8 in the village of San Jorge, Zacapa. Pineda was a mayoral candidate nominated by the leftist New Guatemala Democratic Front. According to the Guatemalan Workers Central, Pineda had participated in a campaign to remove Zacapa Mayor Carlos Roberto Vargas on corruption charges. Another union leader and Vargas opponent was shot to death in January.

Then again in Guatemala:

A recent U.N. report said poverty encompasses 60 percent of the urban population and 80 percent of rural inhabitants. Figures from the Institute for Economic and Social Investigations of San Carlos University are even more devastating, reporting that 93 percent of the indigenous population lives in poverty and 81 percent cannot meet nutritional needs.

Mr. President, again:

Workers from more than a dozen different factories complain about everything from restricted bathroom visits and sore backs to illegal firings and abuse.

Sewing machines hum and rock music blares as 13-year-old Maria furiously folds clothes inside a Guatemalan factory called Sam Lucas S.A.

Maria is a 13-year-old. According to the Wall Street Journal, of course, that has nothing to do with any employee in the Caribbean Basin Initiative or Africa.

The Grade 2 dropout folds 50 shirts an hour, or 2,700 shirts a week that will end up in North American stores.

Sometimes Maria's boss extends her 10-hour day and asks her to stay until 10:30 p.m. or all night, assembling clothes for export in this tax-free plant called a maquila. . . .

Forced overtime, union busting, no social security benefits and unpaid work are typical grievances of factory staff, who are mostly young, female, Indian, and poor.

Mr. President, in Honduras:

A two-week strike at the Korean-owned Kimi de Honduras maquiladora ended September 2 after they dropped criminal charges against the union and accepted a new pay scale. The strike began August 18 when 500 workers, mostly women, demanded compliance with a March union contract. [This particular plant] produces apparel for U.S. retailer J.C. Penney and is part of the eight-plant Continental Park, a free-trade zone in La Lima. Unionized Kimi workers closed down Continental [in] August with blockades, but anti-riot police arrived August 30. In solidarity, most workers from other factories refused to enter the zone, but were subsequently beaten and gassed by the police. Kimi union officials promptly distributed leaflets to workers of other factories, urging them to return to work and prevent more violence. Some 100,000 workers are employed in the country's 200 maquilas, which export $1.6 billion in goods to the United States each year.

You have the Roca Suppliers Search maquiladora in El Salvador:

The Roca Suppliers Search maquiladora in the town of Mejicanos was abruptly closed November 19, leaving 240 workers laid off. The workers say production was moved to another factory after a group of 22 workers met with representatives of the progressive union federation. [They really work and make] U.S. brands including Calvin Klein and L.L. Bean. The factory's owner said the shop closed due to a lack of raw materials. Labor activists noted that the termination came just before legally mandated Christmas bonuses. The bonuses average about $40.

Then again, in El Salvador: They work from Monday through Friday, from 6:50 a.m. to 6:10 p.m., and on Saturday until 5:40 p.m., and occasional shifts to 9:40 p.m. It is common for the cutting and packing departments to work 20-hour shifts from 6:50 a.m. to 3 a.m.

Anyone unable or refusing to work the overtime hours will be suspended and fined, and upon repeat ''offenses,'' they will be fired.

There is no time clock. Records of an employee's overtime hours are written in a log by the supervisor. Workers report that it is not uncommon to be short changed two hours of overtime if the supervisor is angry with them.

There is a one 40-minute break in the day for lunch from noon to 12:40 p.m.

All new workers must undergo and pay for a pregnancy test. If they test positive, they are immediately fired. The test costs two days' wages.

I ask unanimous consent that this particular group of conditions in El Salvador be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KATHIE LEE SWEATSHOP IN EL SALVADOR

CARIBBEAN APPAREL, S.A. DE C.V., AMERICAN FREE TRADE ZONE, SANTA ANA, EL SALVADOR

A Korean-owned maquila with 900 plus workers.

Death threats
Workers illegally fired and intimidated
Pregnancy tests
Forced overtime
Locked bathrooms
Starvation wages
Workers paid 15 cents for every $16.96 pair of Kathie Lee pants they sew

Cursing and screaming at the workers to go faster
Denial of access to health care
Workers fired and blacklisted if they try to defend their rights

Caribbean Apparel is inaccessible to public inspection. The American Free Trade Zone is surrounded by walls topped with razor wire. Armed guards are posted at the entrance gate.

Labels

Kathie Lee (Wal-Mart), Leslie Fay, Koret, Cape Cod (Kmart)

Sweatshop Conditions at Caribbean Apparel

Forced Overtime: 11-hour shifts, 6 days a week—Monday–Friday: 6:50 a.m. to 6:10 p.m. Saturday: 6:50 a.m. to 5:40 p.m. There are occasional shifts to 9:40 p.m. It is common for the cutting and packing departments to work 20-hour shifts from 6:50 a.m. to 3:00 a.m.

Anyone unable or refusing to work the overtime hours will be suspended and fined, and upon repeat ''offenses'' they will be fired.

There is no time clock. Records of an employee's overtime hours are written in a log by the supervisor. Workers report that it is not uncommon to be short changed two hours of overtime if the supervisor is angry with them.

There is a one 40-minute break in the day for lunch from noon to 12:40 p.m.

Mandatory Pregnancy Tests: All new workers must undergo and pay for a pregnancy test. If they test positive they are immediately fired. The test costs two days wages.

Below Subsistence Wages: The base wage at Caribbean Apparel is 60 cents an hour or $4.79 for the day. This wage meets only ⅓ of the cost of living.

Searched On the Way In and Out: Workers are searched on the way in—candy or water is taken away from them which the company says might soil the garments. On the way out, the workers are also searched.

The Factory is Excessively Hot: The factory lacks proper ventilation. There are few fans. In the afternoon the temperature on the shop floor soars.

No Clean Drinking Water: Only tap water is available, which is dirty and warm. Caribbean Apparel refuses to provide cold purified drinking water.

Bathrooms Locked: The workers are not allowed to get up or move from their work sites. The bathrooms are locked from 7:00 a.m. to 8:00 a.m., and again from 5:00 p.m. to 6:00. Workers need permission to use the bathroom, which is limited to one visit per morning shift and one during the afternoon shift. The workers report that the bathrooms are filthy.

Pressure and Screaming to go Faster: There is constant pressure to work faster and to meet production goals of sewing 100–150 pieces an hour. Mr. Lee, the production supervisor, curses and screams at the women to go faster. Some workers have been hit. For talking back to a supervisor the women are locked in isolation in a room. Most cannot reach their daily production quota and if they do the company arbitrarily raises the goal the next day.

Where a Worker Spends Money

Rent for two small rooms costs $57.07 per month, or $1.88 a day.
The round trip bus to work costs 46 cents.
A modest lunch is $1.37.

At the end of the day sewing Kathie Lee garments a worker is left with just $1.08, which is not even enough to purchase supper for a small family. Unable to afford milk, the workers' children are raised on coffee and lemonade.

15 Cents to Sew Kathie Lee Pants

The women earn just 15 cents for every pair of $16.96 Kathie Lee pants they sew. That means that wages amount to only 9/10 of one percent of the retail price of the garment. (62 workers on a production line have a daily production quota of sewing 2,000 pairs of Kathie Lee pants each 8-hour shift. 62 workers × $4.79 = 296.98/2,000 × $16.96 = $33,920/33,920) 296.98 = .0087553/or 9/10 of one percent × $16.96 = 15 cents)

Denied Access to Health Care

Despite the fact that money is deducted from the workers' pay, Caribbean Apparel management routinely prohibits the workers access to the Social Security Health Care Clinic. Nor does the company allow sick days. If a worker misses a day, even with written confirmation from a doctor that she or her child was very sick, she will still be punished and fined two or three days pay.

If the workers are seen meeting together, they can be fired. If the workers are seen discussing factory conditions with independent human rights organizations they will be fired. If workers are suspected of organizing a union they will be fired and blacklisted.

Fear and Repression—There are No Rights at Caribbean Apparel

Fear and repression permeate the factory. The workers have no rights. Everyone knows that they can be illegally fired, at any time, for being unable to work overtime, for needing to take a sick day, for questioning factory conditions or pay, for talking back to a supervisor, or for attempting to learn and defend their basic human and worker rights.

Fired for Organizing

Six workers have been illegally fired beginning in August for daring to organize a union at Caribbean Apparel. All six workers were elected officials to the new union.

List of Fired Workers

Blanca Ruth Palacios
Lorena del Carmen Hernandez Moran
Oscal Humberto Guevara
Dalila Aracely Corona
Norma Aracely Padilla
Jose Martin Duenas

Death Threat

In September, Jiovanni Fuentes, a union organizer assisting the workers at Caribbean Apparel, received a death threat from the company. He was told that he and his friends should leave the work or they would be killed. He was told that he was dealing with the Mafia, and in El Salvador it costs less than $15 to have someone killed.

KATHIE LEE/WAL-MART SWEATSHOP IN MEXICO

HO LEE MODAS DE MEXICO, PUEBLA, MEXICO

550 workers
The Ho Lee factory sews women's blazers, pants and blouses for Wal-Mart and other labels. Kathie Lee garments have been sewn there.

Sweatshop conditions

Forced Overtime: 12½ to 14 hour shifts, 6 days a week. Monday to Friday: 8:00 a.m. to 8:30 p.m. Saturday: 8:00 a.m. to 4:00 p.m.

There is one 40-minute break in the day for lunch.

The workers are at the factory between 67 and 79 hours a week.

New Employees are forced to take a mandatory pregnancy test.

For a 48-hour week the workers earn $29.57 or 61 cents an hour which is well below a subsistence wage.

Workers are searched on the way in and out of the factory.

The supervisors yell and scream at the women to work faster.

Bathrooms are filthy and lack toilet seats or paper. The workers have to manually flush the toilet using buckets of water. Some of the toilets lack lighting.

14-15-16 year old minors have been employed in the plants.

Public access to the plant is prohibited by several heavily armed guards.

KATHIE LEE/WAL-MART SWEATSHOP IN GUATEMALA

SAN LUCAS, S.A., SANTIAGO, SACATEPEQUEZ, GUATEMALA

1,500 workers
The San Lucas factory sews Kathie Lee jackets and dresses.

Sweatshop conditions

Forced Overtime: 11 to 14½ hour shifts, 6 days a week. Monday to Saturday: 7:30 a.m. to 6:30 p.m., sometimes they work until 10:00 p.m. The workers are at the factory between 66 and 80 hours a week.

Refusal to work overtime is punished with an 8-day suspension without pay. The second or third time this ''offense'' occurs, the worker is fired.

Below Subsistence Wages: For 44 regular hours, the pay is $28.57, or 65 cents an hour. This does not meet subsistence needs.

Armed security guards control access to the toilets, and check the amount of time the women spend in the bathroom, hurrying them up if they think they are spending too much time.

Public access to the plant is prohibited by several heavily armed guards.

Mr. HOLLINGS. Mr. President, again quoting:

In September, Jiovanni Fuentes, a union organizer assisting the workers at Caribbean Apparel, received a death threat from the company. He was told that he and his friends should leave work, or they would be killed. He was told that he was dealing with the Mafia, and in El Salvador, it costs less than $15 to have someone killed.

I could go on and on. Obviously, these working conditions are not to the attention of this particular body. They could care less.

Labor conditions are very important. The standard of living in the United States of America is an issue. When you open up a manufacturing plant, it is required that you have clean air, clean water, minimum wage, safe working machinery, safe working conditions, plant closing notice, parental leave, Social Security, Medicare, Medicaid, and unemployment compensation. All of these particulars are needed. These elevate to the high standard of American living. And it deserves protection. At least it deserves a negotiation—which we included in the NAFTA agreement—in this particular CBI and sub-Saharan agreement.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks time?

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I thank the Chair.

The PRESIDING OFFICER. Who seeks time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent to lay the pending amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2428

(Purpose: To strengthen the transshipment provisions)

Mr. FEINGOLD. Mr. President, I call up amendment No. 2428 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2428.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. FEINGOLD. Mr. President, as I have said before, unless the African Growth and Opportunity Act is significantly improved, it will fail to stimulate any meaningful growth in Africa; it will fail to provide significant opportunities for commerce or development; and, in fact, if we do not make some changes, it may do harm to both Africans and Americans. So what this amendment does is take an important step toward preventing harm and improving this trade legislation.

Mutually beneficial economic legislation has to be fair to all parties involved. The African Growth and Opportunity Act must be amended to adequately address the problems of transshipment, not just to make certain that it is fair to Africans but also to ensure Americans are not cheated and that American law isn't broken.

Let me talk a little bit about transshipment. Transshipment occurs when textiles originating in one country are sent through another before they come to the United States. What this does is, the actual country of origin seeks to disguise itself and therefore ignore our U.S. quotas. This is not a minor matter. Approximately $2 billion worth of illegally transshipped textiles enter the United States every year.

The U.S. Customs Service has determined that for every $1 billion of illegally transshipped products that enter the United States, 40,000 jobs in the textile and apparel sector are lost.

Let me repeat that.

The Customs Service says that every time we have a billion dollars of illegally transshipped products entering the United States, we lose 40,000 jobs in this country in that area of our economy.

Failure to protect against transshipment surely does harm. Those who think transshipment isn't going to be a problem in Africa had better think again.

We have had a chance to take a look at the official web site of the China Ministry of Foreign Trade and Economic Cooperation. It quotes an analyst as follows. This is a direct quote we have on this board. This is what they say on the web site:

Setting up assembly plants with Chinese equipment technology and personnel could not only greatly increase sales in African countries but also circumvent quotas imposed on commodities of Chinese origin by European and American countries.

That is very explicit and very intentional. The Chinese know standard United States protections against transshipment are weak, and they obviously intend to exploit them.

The African Growth and Opportunity Act, as it currently stands without my amendment, relies on those same weak protections—the same textile visa system that China and others have successfully manipulated in the past. This inadequate system requires government officials in the exporting country to give textiles visas certifying the goods' country of origin for those textiles to be exported. Too often, this isn't good enough; corrupt officials simply sell the visas to the highest bidder.

What does this amendment do? This amendment changes this failing system. It makes U.S. importers responsible for certifying where textiles and apparel are produced. This gives the U.S. entities a strong financial stake in the legality of their imports.

This amendment allows us not to rely simply on foreign officials. This standard relies on the American companies that operate right here under American law, and it holds those companies liable for any false statements or omissions in the certification process.

This amendment lays out clear procedures and tough penalties so that these regulations will actually work.

If the Senate agrees to this amendment, countries such as China that want to evade United States trade regulations will have to rethink their designs on Africa. If we agree to this amendment, the opportunities promised by this legislation really will go to Africans, and not to third parties. If we agree to this amendment, Americans will not lose their jobs because of AGOA's inadequate transshipment protection.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FEINGOLD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 2379

Mr. ROTH. Mr. President, I oppose the Hollings amendment for two reasons.

First, as I have stated previously, the goal of this legislation is to encourage investments in Africa, the Caribbean, and Central America. The amendment would undermine that effort by requiring the difficult negotiations of side agreements which would delay the incentive the bill would create. That, I argue, is of no help to these developing countries and will not lead to any greater improvement in the labor standards provisions that are already incorporated into these programs. Virtually every study available indicates that labor standards rise with a country's level of economic development.

The goal of the bill is to give these countries an opportunity to tap private investment capital as a means of encouraging economic development and economic growth. That is the most certain way to ensure these countries have the ability to enforce any labor standards they choose to enact into law.

Frankly, the worst opponent of labor standards is the lack of economic opportunities in these countries. It is difficult to insist on safe working conditions on the job and negotiate a living wage when you have no other job opportunities. The point of this legislation is to provide those job opportunities. Creating obstacles to that goal will diminish, not enhance, the positive impact the bill would have on labor standards.

The second reason I oppose the amendment is that it essentially depends on economic sanctions to work. The threat is that the economic benefits of the beneficiary countries will be cut off if the countries do not comply with the terms of some agreement yet to be negotiated. That not only undercuts the investment incentive by increasing the uncertainty of a country's participation in the program; it also does little to raise labor standards.

What is needed is a cooperative approach bilaterally between the United States and the particular developing country and among the countries of the region as a whole.

The lesson of the NAFTA side agreement, in my view, is that sanction mechanisms have done little to encourage better labor practices. What has worked under the NAFTA agreement is the cooperative ventures of the three participants. What is needed in the context of both regions targeted by this bill is a stronger effort among the participants, with the support of the United States, to tackle common problems facing their strongest resource—their workforce.

The Senate substitute before us does not preclude those sorts of constructive efforts by the President. Indeed, the President would do well to pursue a similar model in the context of our broader relations with our African, Caribbean, and Central American neighbors. The model offered by the pending amendment would not, in my judgment, help that goal.

I therefore urge my colleagues to oppose the amendment. At the appropriate time, I will make a motion to table the amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I am sort of stunned in a way because the argument is made that this is going to forestall the jobs that are intended under the bill.

Could it really be that we want to finance 13-year-olds and child labor?

Could it be that they have to work 100 hours a week at 13 cents an hour?

Could it be if they become pregnant and have to go home sick that they are fired?

I could go down the list of things.

That is what I just pointed out. I am confident my colleagues don't want to finance those kinds of atrocities.

I am just stunned that someone would say this would hold it up because the agreement is yet to be had. The agreement is to be joined by the authorities and the Governments of El Salvador, Guatemala, Honduras, and the other countries down there in the Caribbean Basin. If they haven't agreed, obviously, they couldn't be in violation, or they couldn't be with the side agreement.

That is why it is very innocent language suggesting that the benefits don't take effect until we have had a chance to sit down, both sides, and decide what will be agreed to and what will be done by the particular governments. So it would be violations of their own government policies.

AMENDMENT NO. 2483

(Purpose: To require the negotiation, and submission to Congress, of side agreements concerning the environment before benefits are received)

Mr. HOLLINGS. Mr. President, I am not trying to forestall. I am trying to comply with the requirements. I call up my amendment on the environmental side, and I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an amendment numbered 2483.

At the appropriate place, insert the following:

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

Mr. HOLLINGS. Mr. President, the emphasis in this Amendment is similar to the North American Agreement on Environmental Cooperation.

It is the very same thing we required in NAFTA with Mexico and Canada with respect to the Canadian side.

I ask unanimous consent to have printed in the RECORD an article entitled ''Canadians Challenge California Pollution Rules Under NAFTA.''

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Gazette, (Montreal), Oct. 27, 1999]

CANADIANS CHALLENGE CALIFORNIA POLLUTION RULE UNDER NAFTA

(By Andrew Duffy)

OTTAWA.—A Canadian firm has filed a NAFTA environmental complaint against California, charging the state failed to protect its groundwater from leaky gasoline-storage tanks.

The unusual move by Vancouver's Methanex Corporation, which produces a gasoline additive being phased out by California, comes in addition to the company's $1.4-billion lawsuit against the state and the U.S. government, an action launched under Chapter 11 of the North American Free Trade Agreement.

Methanex argues California's ban on MTBE (methyl tertiary-butyl ether) is unfair because the problem lies not with the gasoline additive, but with aging underground gas storage tanks that leak into aquifers.

''It thus treats a symptom (MTBE) of gasoline leakage rather than the leakage itself, deflecting attention from the state's failure to enforce its environmental laws,'' says the company's environmental complaint, which has just been submitted to the Commission on Environmental Co-operation.

The Montreal-based commission was established under a NAFTA side-agreement to ensure Canada, Mexico and the U.S. maintain environmental standards in the face of trade pressures.

In its 16-page submission—the first of its kind from a corporation—Methanex contends California has not enforced existing laws designed to protect groundwater from contamination by leaky underground gas tanks.

Methanex is North America's largest supplier of MTBE, a gasoline additive that makes fuel burn more completely in a car engine, thus reducing tailpipe emissions.

Earlier this year, California Governor Gray Davis issued a regulation that will ban MTBE by 2002 because of concerns that it's polluting lakes and drinking water in the state.

''We believe that what's occurring in California is plain wrong from an environmental perspective,'' said Methanex vice-president Michael Macdonald.

''People have lost sense of the plotline: that MTBE only gets into the environment through gasoline releases. We're trying to focus attention on the root cause of the issue, which is leaking underground storage tanks.''

California has the strictest air-quality controls in North America. As part of those controls, oil-refiners in the state were required to improve their gasolines during the 1990s; many turned to MTBE to cut emissions.

But California researchers now say MTBE is so highly soluble—more so than other gas components—that it travels far from the source of gas leaks to pollute groundwater.

MTBE contamination has forced the closing of wells in Santa Monica, Lake Tahoe, Sacramento and Santa Clara, according to a state auditor's report issued last year. The same report said evidence from animal studies suggests the chemical compound may be a human carcinogen.

Methanex has notified the U.S. government it will seek damages under NAFTA's Chapter 11, which gives corporations the right to sue governments if they make decisions that unfairly damage their interests.

Company officials said yesterday they're about to enter discussions on an out-of-court settlement with the U.S. State Department.

American companies have used Chapter 11 to challenge Canadian laws that restricted the use of another gasoline additive, MMT; banned the export of PCBs; and halted the export of fresh water from British Columbia.

The only case to be settled—the one that involved MMT—cost Canadian taxpayers $20 million.

Mr. HOLLINGS. Similarly, I have an article about the side deals to the trade agreement giving labor and environmental issues a new form of significance that I ask unanimous consent be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Nov. 29, 1998]

A VISION UNFULFILLED

(By Karen Brandon)

The new pier's long, crooked finger points deep into the Caribbean Sea near the fragile coral reef off the coast of Cozumel, Mexico.

The mere existence of the structure offers a metaphor for the paradoxes raised by the world's most ambitious attempt to tie environmental concerns to international free trade.

The Puerta Maya pier dispute is the sole case to wind its way completely through the labyrinth of bureaucracy established to resolve environmental conflicts under the North American Free Trade Agreement.

Environmentalists persuasively argued that the Mexican government violated its own environmental laws when it assessed the potential impact of the pier, designed to accommodate more and larger cruise ships and to bring more tourists to the region.

According to the 55-page ''final factual record'' that followed an 18-month investigation, the environmentalists essentially won.

''We proved that the Mexican government violated the law,'' said Gustavo Alanis, president of the Mexican Environmental Law Center, one of the organizations that raised the issue. ''It's an enormous victory for international environmental rights.''

But the victory is only on paper. The Puerta Maya pier was built, and tourists now disembark from cruise ships there to stroll its walkway lined with liquor, perfume and souvenir shops.

As the outcome of the pier project suggests, the environmental legacy of the free trade agreement begun nearly five ago is contradictory.

The very trade agreement that elevated environmental concerns to an unprecedented level, making ''sustainable development'' one of its goals, also gave businesses a new tool to combat pollution regulations they consider onerous. The measure, an investment provision that has been interpreted to allow companies to sue countries whose pollution regulations hinder profits, is essentially unaffected by the environmental side accord and lies beyond the direct jurisdiction of the Commission for Environmental Co-operation, the organization created to oversee environmental concerns.

In analyzing the impact of the agreement's overall environmental agenda, the Tribune interviewed scores of economists, legal experts, government officials and environmental activists in Canada, Mexico and the United States.

The free trade agreement, with its side accord, did not force a cleanup of long-polluted sites. It did not foist tough new international standards on polluters. It did not create a new police agency to enforce regulations that had long been ignored.

The agreement set no minimum or uniform standards for the three participating nations. Instead, it promised to see, somehow, that each nation enforced its environmental laws, and it gave citizens a new international forum to raise complaints about countries that failed to do so.

Even its most passionate advocates concede the pact has no practical means to punish governments or companies other than through the stigma of bad publicity. A provision for sanctions exists for a ''persistent pattern'' of failure to enforce environmental laws, but many experts say it will never be used.

Moreover, though it technically bars the weakening of environmental laws to attract investment, the agreement offers no real tool to counteract any decision by the countries to alter their own environmental laws for any reason, analysts note.

''The implication is that the three governments are going to be at least as good by the environment as they are today,'' said David Gantz, associate director of the National Law Center for Inter-American Free Trade at the University of Arizona in Tucson. That assumption, he added, is ''dependent on their goodwill.''

Scenes from the U.S.-Mexico border, the fastest-growing region in North America, tell the story of the vast environmental problems facing Mexico. Explosive population and industrial growth, some of it fueled by the trade agreement itself, have only worsened the pollution that plagues the region's air, water and ground.

The border remains a stark contradiction, a place where the world's most prosperous corporations using the most modern manufacturing techniques stand beside poor neighborhoods where people live in shacks made of wooden pallets or cardboard, without running water, sewers, electricity or telephones.

In Tijuana, obvious industrial violations are easy to find. The stench of a bathtub refinishing plant burns the eyes and nose of anyone within blocks of the building, and industrial fans meant to clear the air for workers inside stand idle. At the site of the abandoned lead smelting factory Metales y Derivados, a subsidiary of San Diego-based New Frontier Trading Corp., which is now the subject of a citizens' complaint against Mexico, leaking car batteries lie in huge mounds, and the only pretense of a cleanup is torn plastic sheeting.

The New River, which crosses the Mexico-California border, is essentially a sewer, even more so now that the temporary ''fix'' for it has been to encase it in huge tubing, rather than to clean it. Ciudad Juarez has no facility to treat the sewage from its 1.3 million residents.

John Knox, a University of Texas law professor and former negotiator for the State Department on the environmental side accord, said, ''I think it's fairly easy to say it is better than nothing, but if you compare what it's doing to the scope of the problem, then it seems pretty minuscule.''

NEW OPPORTUNITIES

When it took hold on New Year's Day 1994, the trade agreement already had deeply divided environmentalists. Opponents feared it would make Mexico a pollution haven and drag down the higher standards of Canada and the United States. Advocates believed it could be Mexico's best hope, both by pressuring it into better environmental standards and by improving its economy, which in turn could lead to higher environmental standards.

Pollution intensity is highest in the early stages of a country's industrialization, but it wanes as income levels rise. Researchers have found that environmental degradation tends to decline once annual per capita incomes reach a threshold of $8,000—roughly double Mexico's per capita income.

One particular dispute settled in July has only exacerbated environmentalists' fears that governments would be pressured to reduce their pollution standards.

In June 1997, the Canadian government banned a gasoline additive after some studies suggested the chemical, MMT, used to boost octane's power, could cause nerve damage. In retaliation, the manufacturer, Richmond, VA-based Ethyl Corp., sued the Canadian government for $250 million under a provision in the trade agreement's main text, not its environmental side accord, contending that the ban essentially amounted to an ''expropriation'' for which it should be compensated.

The same substance has provoked considerable controversy in the United States, where it was among the chemicals banned by the 1977 Clean Air Act. Eighteen years later, Ethyl won the right to sell MMT from an appeals court ruling that overturned the Environmental Protection Agency's decision to continue the ban in lieu of sufficient studies on the substance's potential effects.

In July, the Canadian government rescinded the ban and agreed to pay Ethyl $13 million for lost profits and legal costs.

''Virtually any public policy which diminishes corporate profits is vulnerable,'' said Michelle Swenarchuk, director of international programs for the Canadian Environmental Law Association. ''It has profound intimidating effects.''

The prospect of such a suit had helped to kill a Canadian proposal that would have required cigarettes be sold only in plain brown packaging to make them less appealing to children, she said.

A similar case is pending against Mexico under the same provision, which authorizes arbitration panels to handle such cases in private. In it, Metalclad Corp., a Southern California hazardous-waste disposal business, is seeking $990 million in damages for being denied permission to open a landfill in central Mexico.

Meanwhile, 20 cases (eight against Canada, eight against Mexico and four against the United States) have been brought to the Commission for Environmental Cooperation alleging that governments have failed to enforce their environmental provisions. Eleven are under review, including one that is undergoing the most advanced procedure for redress available, the preparation of a factual record. That case stems from allegations that the Canadian government has failed to protect fish and fish habitat in British Columbia's rivers from damage by hydroelectric dams.

The notorious environmental problems of Mexico do not stem from its laws. Many are styled after U.S. provisions, and some are more stringent.

But enforcement is lax or absent. In a recent World Bank Group study in Mexico, more than half of the industries surveyed said they did not comply with environmental regulations.

The Mexican government insists that it has made important strides in dealing with the environment, principally with more environmental inspections.

''Government action . . . has presented important advances in the three years of the present administration,'' a statement from the Mexican embassy is Washington, D.C., said.

But its federal government this year has been forced to make deep spending cuts that include its environmental program because of the ongoing drop in the price of oil, upon which Mexico depends for more than one-third of its revenues.

Slow steps

The environmental accord created two institutions dedicated to pollution cleanup along the U.S.-Mexico border: the North American Development Bank, created by $450 million contributed in equal parts by the United States and Mexico to arrange financing for projects; and its sister agency, the Border Environmental Cooperation Commission, which evaluates projects before they can receive the bank's backing. The institutions got off to a slow start, and the chief obstacle for most projects was basic: They had to find a way to pay for themselves.

The bank's mission—to finance the projects primarily by guaranteeing loans, rather than by grants—proved an almost insurmountable hurdle for communities in an impoverished region that had never found the financial resources or the political will to meet basic needs, such as providing drinking water and sewers.

''Is it possible to clean up on a for-profit basis 30 years of raping the environment for profit?'' asked David Schorr, senior trade analyst for the World Wildlife Fund.

Though other development banks offer low-interest loans, the North American Development Bank has no such discount. ''Market rates can make a loan package prohibitively expensive for poor communities,'' said Mark Spalding, a University of California at San Diego instructor who participated in the negotiations to create the two institutions. It was only in April 1996, when the bank received a $170 million infusion of grants from the U.S. Environmental Protection Agency, that its projects began to seem viable.

Now, 19 projects representing a planned investment of $600 million have been approved, and the first of them, two landfills, are to be completed in January. Eight are under construction, and two more, including a sewage treatment plant for Ciudad Juarez, are soon to begin. Dozens of others are in preliminary planning stages, beginning the arduous process to determine how, and whether, they can be financed.

While the bank's sewage-treatment projects represent unquestionable improvements for border communities, they have faced one criticism. The standards set for Mexican communities are beneath those considered basic in the U.S.

One of the few evaluations of the side agreement's environmental agenda suggests that it has been modestly successful in carrying out cooperative initiatives among the countries. The accomplishments include agreements among the countries to phase out some pollutants, and to develop or expand new programs for conservation of species, including monarch butterflies and migratory songbirds, concluded the Institute for International Economics, a non-profit, non-partisan research institution in Washington, D.C

The Commission for Environmental Cooperation, which has been plagued by political rifts between the U.S. and Mexico, admits it has yet to resolve the debate over whether trade liberalization leads to better or worse environmental conditions. ''While there are theoretical arguments on both sides, there is little empirical data available to settle it,'' its own assessment concluded.

This fall the commission published a study purporting to find a drop in pollution across North America during the trade agreement's first year. It failed to take into account one substantial portion of the continent, however—Mexico, which has yet to implement the necessary pollution reporting system.

Mr. HOLLINGS. From that article:

Environmentalists persuasively argued that the Mexican government violated its own environmental laws when it assessed the potential impact of the pier, designed to accommodate more and larger cruise ships.

''We proved that the Mexican government violated the law,'' said Gustavo Alanis, president of the Mexican Environmental Law Center, one of the organizations that raised

the issue. ''It is an enormous victory for international environmental rights.''

The emphasis, of course, is that there are those in the countries involved with labor rights and with the environment. They are not purely nomads. They have an environmental movement in Mexico and in Canada.

We would help to extend environmental concerns and labor rights with this particular agreement if they adopt these two amendments.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I remind my colleague that my bill already includes significant labor conditions. Specifically, the beneficiary countries must be taking steps to afford their workers' internationally recognized worker rights. If the beneficiary countries fail to protect worker rights, then the benefits under both the CBI and Africa may be terminated.

AMENDMENT NO. 2428

I will now address the proposed amendment of the Senator from Wisconsin. The legislation he refers to, to add some novel transshipment provisions, raises serious constitutional questions in the United States. What the bill would do is impose joint liability on the importer and the retailer for any material false statement or any omission made in filing the numerous forms and certifications that have to be filed to enter any textile or apparel items into the United States and receive the meager benefits available under the bill.

The bill adds Draconian new penalties for any alleged transshipment. While I am not opposed to adding such penalties for what is outright customs fraud subject to all the normal due process protections ordained by the Constitution and contained in current U.S. law, this bill allows for the imposition of such penalty on what it terms ''the best information available.''

Let me put that in its proper context. Under this bill, a retailer who has no control over either the exporter's or importer's action could be held jointly liable for any minor omission made by either the exporter or importer and held liable not because the retailer was found to be guilty of infraction beyond a reasonable doubt but merely on the basis of the best information available to the Customs Service.

That turns the whole notion of a due process protection guaranteed by the Constitution and by American administrative law on its head. I submit this is the opposite of constitutional protection.

This is an example, in the words of Jeremy Benton, of what is called dog law. The author decided they can't tell the dog right or wrong ahead of time, and they kick it after the fact to let it know they think it has done wrong. My guess is there aren't too many retailers willing to get in the way of a hard left foot. This bill aims at their praises, but what Customs provisions do as a result is discourage trade and thereby discourage investment.

In short, this proposal is not what the author suggested nor is this bill, as the title claims: Hope for Africa. In fact, this bill is the reverse of what we want to do in establishing a new partnership with Africa.

I urge my colleague to oppose this amendment.

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. ROTH. 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. ROTH. Mr. President, I oppose the Hollings amendment No. 2483 and I do so for two reasons. First, as I have stated previously, the goal of this legislation is to encourage investment in Africa, the Caribbean, and Central America. The amendment undermines that effort by requiring the difficult negotiation of side agreements on both labor and the environment that delays the incentive that the bill is intended to create. This is bad for labor and environmental conditions in the beneficiary countries as well as their economies.

The available research suggests labor and environmental standards rise with a country's level of economic development. This is because for countries that are on the edge of famine, enforcing labor standards and protecting the environment are a luxury. The Finance Committee bill helps economically and in improving labor and environmental standards by giving these countries an opportunity to tap private investment capital as a means of encouraging economic development and economic growth. That is a most certain way to ensure that these countries have the wherewithal to pay for environmental protection.

The second reason I will oppose the amendment is that it essentially depends on economic sanctions to work. It threatens to cut off a series of economic benefits if the countries do not comply with the terms of some agreement yet to be negotiated. That not only undercuts the investment incentive by increasing the uncertainty of a country's participation in the program, it also does little to raise labor and environmental standards. As we have heard during the extended debate we have had on economic sanctions in the past, they do, actually, little to affect the behavior of the target country. Indeed, in the case of the intended beneficiaries of these tariff preference programs, they would have the opposite effect on labor and environmental protections by discouraging investment in economic growth.

What is needed, as I said earlier, is a cooperative approach, bilaterally between the United States and the particular developing country and among the countries of the regions as a whole. The experience under the NAFTA side agreement reinforces my point. The sanctions mechanisms have done little to encourage better labor and environmental practices. What has worked under the NAFTA agreement is the cooperative ventures of the three participants on both the labor and the environmental front. The NAFTA Commission on Environmental Cooperation, for example, advises all three countries on how to tackle common environmental problems. That advice has helped ensure coordination rather than conflict among the NAFTA partners over environmental issues.

The Senate substitute before us does not preclude these sorts of constructive efforts by the President. Indeed, the President would do well to pursue a similar model in the context of our broader relations with our African, Caribbean, and Central American neighbors. The model offered by the pending amendment would not help us towards that goal. I, therefore, urge my colleagues to oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Hollings amendment No. 2483.

AMENDMENT NO. 2428

Mr. FEINGOLD. Mr. President, this is a little confusing. We are debating several amendments at once. I would like to see if we could get a little back and forth going. I wanted to respond to the chairman's comments about my amendment, but then he went into several arguments about the amendment of the Senator from South Carolina. I am worried it is going to be awfully hard for people to follow this.

Let me return to and respond to the concerns of the chairman with regard to the amendment I have offered, to try to do something about this problem of transshipment, this problem that some countries—very likely China—will take advantage of this new Africa Growth and Opportunity Act to ship a lot more of their goods through Africa into the United States, and not only harm the African nations and people who are trying to benefit from this but harm American jobs.

Every $1 billion of transshipped goods into this country apparently costs about 40,000 American jobs in the textile-related area.

When the chairman suggests we are trying to discourage legal trade by this amendment, that is the opposite of what we are doing. We are trying to prevent this kind of circumvention of

the spirit and intent of the law by unfair and what should be illegal transshipment.

The Senator has suggested somehow there is a constitutional problem with imposing some penalties on importers who are given some responsibilities in this regard. I was not clear on what the constitutional provision was. I assume it is the notion of taking property without due process of law. But if we take a look at these penalties, what we are trying to do is make absolutely sure the importer cooperates with the Customs Service in order to make sure what is happening is not a scam by a government, such as the Chinese Government, to transship its goods through Africa.

Let's look at the actual language the Senator has complained about. He refers to the use of ''best available information.'' All that is required for an importer is that an importer has to cooperate. Let me emphasize this for my colleagues. It says:

If an importer or retailer fails to cooperate with the Customs Service in an investigation to determine if there was a violation of any provision of this section, the Customs Service shall base its determination on the best available information.

The only time this ''best available information'' is even utilized is where the importer has not been willing to cooperate. I think that is entirely reasonable. The Senator refers to these penalties as draconian, as too severe. Let's remember what this bill does. It gives these importers a golden opportunity, a new opportunity to make a lot of money through these new trade opportunities with Africa. I do not think it is draconian to ask these importers to take reasonable steps to avoid the kind of abuse China obviously intends to pursue in this area.

The penalty for the first offense is a civil penalty in the amount equal to 200 percent of declared value of merchandise, plus forfeiture of merchandise. In light of the new opportunities this gives these importers, I do not see this as draconian. I see this as a penalty that is commensurate with the kind of opportunities they are provided. I assume these importers in good faith do not want to facilitate Chinese circumvention of our laws and our quotas. I assume their goal is a good-faith desire to make a profit by trading with these African countries. So we need to do something other than what is the current law, and all the bill does in its current form is reiterate the current law that does not work because it relies on foreign officials to certify these products are really African goods.

That is not good enough. We need to place some responsibility on the importer who is subject to American law. This is the critical point. Either we are going to simply pass this bill, which, frankly, already is very unbalanced and not sufficient to protect American workers, or we are going to try to fix it. Surely, one area we need to fix is this transshipment problem.

Let me quote, again, these web sites of the People's Republic of China, Ministry of Foreign Trade and Economic Cooperation. They say, about the current law which this bill continues:

There are many opportunities for Chinese business people in Africa. Setting up assembly plants with Chinese equipment and personnel could not only greatly increase sales in African countries, but also circumvent the quotas imposed on commodities of Chinese origin imposed by European and American countries.

The opposition to this amendment simply wants to allow the Chinese Government to continue this program. They provide no tough penalties, no obligation for people we can do something about, such as importers and people under American law. They want to let the good times roll for these Chinese companies and governments that are trying to undercut American jobs.

I think that is wrong. Clearly, if there is anything should be adopted, it should be some cracking down on the extremely abusive practice of transshipping. Let's not let these African countries be pawns for the Chinese goal of undercutting American jobs.

Our amendment will strengthen this bill. It certainly will not weaken the bill. It will make the bill a much more honest attempt to make sure this fosters a trade relationship between the United States and the countries of Africa—not a conduit for Chinese abuse of American quotas.

I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Delaware.

Mr. ROTH. Mr. President, I ask consent it be in order for me to move to table the following amendment——

AMENDMENT NO. 2483

Mr. HOLLINGS. Will the distinguished Senator withhold? When he moves to table, that will terminate all debate, as I understand it.

I want to offer one more amendment. But with respect to the environmental amendment, it is clear the distinguished chairman of Finance says: Look, this environmental side agreement we had in NAFTA would now discourage investment. It didn't discourage investment in Mexico and didn't discourage investment in Canada. It would not discourage investment. What we are saying is before you open up as compared to the CBI, you have to have clean air and clean water and the environmental protection statements. You have to have all of these particular requirements. But, by the way, if you want to get rid of them, then go down to the CBI.

The message is clear. This is what you might call the Job Export Act of 1999.

AMENDMENT NO. 2485

(Purpose: To require the negotiation of a reciprocal trade agreement lowering tariffs on imports of U.S. goods with a country before benefits are received under this Act by that country)

Mr. HOLLINGS. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2485, relative to reciprocity.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 2485:

At the appropriate place, insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

Mr. HOLLINGS. Mr. President, it is a matter of reciprocity. We have that working, as they can tell you, wonderful success with Canada and Mexico; reciprocity on all the trade items.

I ask unanimous consent to have the text of tariffs in the Caribbean, Sub-Sahara Africa, and the tariffs and other taxes on computer hardware and software printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	In percent as high as
Textile Tariffs in the Caribbean	
Dominican Republic	43 (Includes 8% VAT).
El Salvador	37.5 (Includes 12% VAT).
Honduras	35 (Includes 10% VAT).
Guatemala	40 (Includes 10% VAT).
Costa Rica	39 (Includes 13% VAT).
Haiti	29.
Jamaica	40 (Includes 15% general consumption tax).
Nicaragua	35 (Includes 15% VAT).
Trinidad & Tobago	40 (Includes 15% VAT).
Textile Tariffs in Africa	
Southern Africa Customs Union (South Africa, Botswana, Lesotho, Namibia and Swaziland).	74 (Includes 14% VAT for South Africa).
Central African Republic	30.
Cameroon	30.
Chad	30.
Congo	30.
Ethiopia	80.
Gabon	30.
Ghana	25.
Kenya	80 (Includes 18% VAT).
Mauritius	88.
Nigeria	55 (Includes 5% VAT).
Tanzania	40.
Zimbabwe	200.

WORLDWIDE TARIFFS AND TAXES ON COMPUTER HARDWARE AND SOFTWARE

Country	Hardware tariff (in percent)	Software tariff (in percent)	Other taxes
Africa:			
Angola	(1)	15	1% surcharge.
Benin	(1)	18	5% customs.

WORLDWIDE TARIFFS AND TAXES ON COMPUTER HARDWARE AND SOFTWARE—Continued

Country	Hardware tariff (in percent)	Software tariff (in percent)	Other taxes
Botswana	0	18	14% VAT.
Cameroon	10	10	15% tax on software, 10% on hardware.
Congo	15	15	15% tax on software, 10% on hardware.
Cote d'Ivoire	5	5	11% VAT on software, 20% on hardware.
Ethiopia	0	50	None.
Gabon	10	10	5% tax.
Ghana	10	25	35% customs tax and 40% entry tax on software, 22.5% on hardware.
Kenya	31	50	18% VAT.
Lesotho	0	18	14% VAT.
Malawi	30	45	20% surcharge.
Mauritius	15	18	8% surcharge.
Mozambique	7.5	35	30% tax on computer discs.
Namibia	0	18	14% VAT.
Nigeria	10	25	5% VAT, 7% surcharge.
Senegal	20	20	20% VAT.
South Africa	0	0	14% VAT.
Sudan	0	40	None.
Swaziland	0	18	14% VAT.
Tanzania	20	30	30% sales tax 5% surtax.
Zambia	15	25	20% sales tax.
Zimbabwe	15	40	10% surtax.
Caribbean Basin:			
Bahamas	15	35	4% stamp tax.
Belize	5	35	15% VAT.
Colombia	5	5	16% VAT.
Costa Rica	2	7.5	13% VAT.
Dominican Republic	10	30	8% sales tax.
El Salvador	0	10	13% VAT.
Guatemala	0	10	10% VAT.
Honduras	1	19	7% VAT.
Jamaica	5	5	15% general consumption tax.
Nicaragua	0	10	15% VAT.
Panama	5	15	5% VAT.

[1] Unknown.

Mr. HOLLINGS. Tariffs on textiles, the 10-percent tariff, which is ready to be blended out, in the blending out and termination of the Multifiber Arrangement in the next 5 years. Be that as it may, we have, in the Dominican Republic a tariff of 43 percent plus 8 percent VAT; El Salvador, 37.5 plus; Honduras, 35 percent plus; Guatemala, 40 percent; Costa Rica, 39; Jamaica, 40; Nicaragua, 35; 40 percent to Trinidad. We have a similar group of tariffs with respect to the tariffs in Africa: the Central African Republic, 30 percent; Cameroon, 30; Chad, 30; Congo, 30; Ethiopia, 80 percent; Gabon, 30 percent; Ghana, 25; Kenya, 80 percent; Mauritius, 88; Nigeria, 55 percent; Tanzania, 40; Zimbabwe, 200 percent.

I plead for reciprocity. I plead for the information revolution, which somehow bypassed me according to this morning's editorial in the Wall Street Journal.

With respect to tariffs on computer hardware and software, we are trying to make sure they do not do transshipments, as the distinguished Senator from Wisconsin has pointed out, and in turn, include such tariffs as: Ethiopia, 50 percent on computer hardware and software; Ghana, 25 percent, plus a 35-percent customs tax, plus a 40-percent entry tax on software and a 12.5-percent complementary tax on hardware.

They are keeping out these advancements due to these high tariffs. This will help not just the African countries, but protect the computer information age material.

In Lesoto, 18 percent plus a 14-percent VAT.

In Malawi, 45-percent tariff plus a 20-percent surcharge.

In Mozambique, 35-percent tariff plus a 30-percent tax on computer disks, a 5-percent circulation tax.

In Senegal, 20 percent with a 20-percent VAT plus 5-percent stamp tax, for a total of 45 percent.

In Sudan, 40 percent.

In Tanzania, 30 percent plus a 30-percent sales tax plus a 5-percent surtax. That is a 65-percent tax.

In Zambia, 25 percent and a 20-percent sales tax.

In Zimbabwe, a 40-percent tariff plus a 10-percent surcharge, for a total of 50 percent.

Going down that list, we have traded a lot of things, and this does not just relegate itself to textiles, it relegates itself to all trade.

The distinguished Senator from Wisconsin is pointing out, very appropriately, the transshipments. We encourage the transshipments without reciprocity. That is why we put it into NAFTA. It should be part of this. We voted on this. It was supported by the distinguished chairman of the Finance Committee and the ranking member with NAFTA. I do not see why they cannot support it now rather than moving to table the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I oppose this Hollings amendment for three reasons.

The first reason, as I have stated previously, is that the purpose of this legislation is to encourage investment in Africa, the Caribbean, and Central America by offering these poverty-stricken countries a measure of preferential access to our market. The amendment would undermine the effort by making eligibility explicitly dependent on the offer of reciprocal benefits to the United States equivalent to those to which the United States is entitled under NAFTA.

The underlying requirements of the African-CBI provisions of the Finance Committee's substitute do encourage the beneficiary countries to remove barriers to trade. The existing requirements also impose an affirmative obligation to avoid discrimination against U.S. products in the beneficiary country's trade. What the Finance Committee substitute does not require is market access equivalent to that of NAFTA, a standard that even the WTO members among these beneficiary countries could not currently satisfy.

The second reason I oppose the amendment is that the Finance Committee already instructs the President to begin the process of negotiating with the beneficiary country under both programs for trade agreements that would provide reciprocal market access to the United States as well as a still more solid foundation with a long-term economic relationship between the United States and its African, Caribbean, and Central American neighbors.

Under the Africa provisions of the bill, the President is instructed to assess the prospects for such agreement and is called on to establish a regional economic forum. That forum could prove instrumental in solving market access problems that U.S. firms may face currently as well as a forum for any eventual negotiation.

Under the CBI provisions of the bill, the Finance Committee sought to encourage our Caribbean-Central American trading partners to join with us in pressing for the early conclusion and implementation of the free trade agreements of the Americas. Each of the beneficiary countries of the CBI program has played an active and constructive role in those talks today.

In both Africa and the CBI, we are making progress in opening markets and eliminating barriers to United States trade. The fact that we do not currently enjoy precisely those benefits offered by Canada and Mexico in

the context of the NAFTA is no bar to action here.

Finally, the bill does encourage reciprocity where it really counts in the context of this bill. By encouraging the use of U.S. fabric and U.S. yarn in the assembly of apparel products bound for the United States, the bill establishes a solid economic partnership between industry and the United States and firms in the beneficiary country. That provides real benefits to American firms and workers in the textile industry by establishing the platform by which American textile makers can compete worldwide. That is precisely the benefit our industry most seeks in the context of our growing economic relationship with both regions.

In short, I oppose the amendment and urge my colleagues to do the same.

Mr. President I ask unanimous consent that it be in order for me to move to table the following amendments with one show of seconds. The amendments are: Hollings No. 2379, Feingold No. 2428, Hollings No. 2483, and Hollings No. 2485. I further ask unanimous consent that these votes occur in a stacked sequence beginning at 3:45, with the time between now and then equally divided in the usual form; there be no other amendments in order prior to the votes; there be 4 minutes equally divided just before each vote; and the votes occur in the order in which the amendments were called up.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, Senator GRASSLEY and I had indicated we would like a chance to offer our amendment at about this time. I inquire if this agreement could include an agreement to allow Senator GRASSLEY and me time to present our amendment before these votes.

Mr. ROTH. All these amendments are going to be disposed of by a tabling motion.

Mr. CONRAD. I understand that. What I am inquiring is whether or not, as part of this agreement, the Senator can indicate that Senator GRASSLEY and I will have a chance to offer our amendment.

Mr. ROTH. Before or after the vote?

Mr. CONRAD. Before the vote. We will be happy to take a vote as part of that sequence or have it at a later point, but that we at least have a chance, since we are both here, to present our amendment before these votes are taken.

Mr. ROTH. I will be happy to add the Conrad-Grassley amendment to the list if it is all right with my colleague.

Mr. MOYNIHAN. Yes. May I ask how much time the Senators from Iowa and North Dakota wish?

Mr. CONRAD. I ask my colleague how much time he wants. May we have 10 minutes, at most, on our side to talk about this amendment?

Mr. ROTH. I then change my proposal to 4 o'clock rather than 3:45, with the understanding my colleagues will take 10 minutes for their side of the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I have a question for the chairman. He and I talked about my adding another amendment prior to these votes as well, amendment No. 2406. I also only need 10 minutes. I ask it be included in the sequence of votes as well.

Mr. ROTH. Will the Senator give me the number of his amendment?

Mr. FEINGOLD. This is No. 2406.

Mr. ROTH. Mr. President, let me renew my request. I ask unanimous consent that it be in order for me to move to table the following amendments, with one show of seconds. The amendments are: Hollings amendment No. 2379, Feingold amendment No. 2428, Hollings amendment No. 2483, Hollings amendment No. 2485, Conrad-Grassley amendment No. 2359, and Feingold amendment No. 2406.

I further ask consent that these votes occur in a stacked sequence beginning at 4 o'clock, with the time between now and then equally divided in the usual form, and there be no other amendments in order prior to the votes, and there be 4 minutes equally divided just before each vote, and the votes occur in the order in which the amendments were called up.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Each will be a 15-minute vote.

The PRESIDING OFFICER. The Chair would ask, to clarify the request, that the debate on amendments Nos. 2359 and 2406 be limited to 10 minutes per amendment.

Mr. CONRAD. Mr. President, my understanding was we were going to get 10 minutes on our side on our amendment.

Mr. ROTH. Yes; 10 minutes.

Mr. MOYNIHAN. Yes.

Mr. CONRAD. Would the chairman modify his request in that regard?

Mr. MOYNIHAN. I think he did.

The PRESIDING OFFICER. Let the Chair restate its understanding. The Chair's understanding is, it will be in order for the Senator from Delaware to move to table the amendments which have been listed, with one showing of seconds; further, that these votes would occur in a stacked sequence beginning at 4 p.m.; between now and 4 p.m., however, amendments Nos. 2359, and 2406 will be allowed to be debated for a maximum of 10 minutes each. The remaining time until 4 p.m. would be divided equally as stated in the unanimous consent request.

Is that correct?

Mr. CONRAD. That is not correct from our standpoint because our understanding was we were going to get 10 minutes on our side. As the Chair has stated it, it would be 10 minutes total debate on our amendment. So if you could just amend that unanimous consent request to be that on amendment No. 2359, there be up to 10 minutes on a side—and we will endeavor not to use that full time—it would be fully agreeable.

Mr. ROTH. That is satisfactory.

Mr. FEINGOLD. I would ask for the same on the amendment I am proposing with the expectation we will not use all the time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. But, Mr. President, I ask unanimous consent the votes start at 4:15, then, instead of 4 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I first congratulate the Chair for having recapitulated this agreement.

The PRESIDING OFFICER. Thank you very much.

Mr. MOYNIHAN. Not a small intellectual feat, equal to my understanding of some of the amendments themselves.

Sir, I am going to make two quick comments. One is anecdotal. I was involved with the negotiation of the Long-Term Cotton Textile Agreement under President Kennedy in 1962. This was a major effort. It was done at the behest of the Southern mill owners and operators, the producers of cotton textiles, and also of the trade unions that represented the garment trades, the Amalgamated Clothing Workers Union and the International Ladies Garment Workers Union, now formed with another union into UNITE. It was a precondition of getting the Trade Expansion Act of 1962, the one major piece of legislation of President Kennedy's first term.

It came and went on to produce what we know as the Kennedy Round. That sequence of long negotiations, most recently was the Uruguay Round, which produced the World Trade Organization. There is another round coming up, we hope, in the aftermath of the Seattle meeting.

Years went by, and I found I was Ambassador to India. On an occasion, in meeting with the Foreign Minister, I said to him, just curiously: Do you find that the quota which India received in the American market of cotton textiles is onerous? It had now been a decade since it was in place. I asked: Is it a trade restriction that is particularly of concern to you? Because if it was, I was required to report it back to Washington.

The Foreign Minister said: Oh, no. That quota guarantees us that much access to the American market which we would otherwise not have, because American textile manufacturers are the low-cost producers. We do not hand loom cotton textiles in this country or wool for that matter. We have the most advanced machinery in the world.

Not to know that, to depict us as the potential victims of the Chinese, with their child labor, does not show any understanding of why nations have child labor. They do so because they do not have machines. They do not have the infrastructure of a modern economy.

The African Growth and Opportunity Act requires that the President certify basically the openness of the trading system, as much as it is going to be open, of the respective countries. The African Growth Act, for example, requires that he determine the country involved has established or is making continual progress towards establishing an open trading system for the elimination of barriers to U.S. trade and investment and the resolution of bilateral trade and investment disputes.

Sir, does anyone wish to name me a nation in the world that would not be open to American investment today? I would ask my friend, the chairman of the committee, is he aware of any country in the world that would refuse American investment?

Mr. ROTH. I would say to the contrary, every country is eager to have American investment.

Mr. MOYNIHAN. They spend their time sending us delegations.

Mr. ROTH. Absolutely.

Mr. MOYNIHAN. There may have been a time—yes, there was, in the era of a planned economy, in the era of the Soviet Union, in another era. Are we debating another era?

We are going to ask the President, under one of these amendments—I have lost track which one—to negotiate 147 reciprocal trade treaties—147—and then, sir, in one of them—I will not say which, because I do not think it would be quite fair—but in one of them, for the third act of imported children's wear, that somehow involves textiles made in the Far East or wherever, the violation is punishable by a fine of $1 million and 5 years in prison.

Do we send people to prison for the mislabeling of cotton goods? I mean, heavens, a little balance, a little perspective. We are talking about marginal producers on the margin of the world economy, trying to give them a hand. In the case of the Caribbean Basin Initiative, we are trying to do what President Reagan said was only fair and balanced: If we were going to have the North American Free Trade Agreement, it should not close out Central America and the Caribbean.

I hope we will proceed as long as we have to with such amendments, but I hope some perspective will be in order.

The PRESIDING OFFICER. The Chair would note, in order to comply with the time agreement previously agreed to, the Conrad amendment would be called up at this time.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2359

(Purpose: To amend the Trade Act of 1974 to provide trade adjustment assistance to farmers)

Mr. CONRAD. Mr. President, I call up my amendment, the Conrad-Grassley amendment, amendment No. 2359, that has been previously filed at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself and Mr. GRASSLEY, proposes an amendment numbered 2359.

Mr. CONRAD. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. CONRAD. Mr. President, I ask my colleagues to give full consideration to this amendment. I consider this a fairness amendment because this amendment, which would extend trade adjustment assistance to farmers, says we ought to be giving them the protection we already give other folks who work for a living.

Right now we have trade adjustment assistance on the books. It is law. If you are working on a job, and you lose your job because of a flood of unfairly traded imports, you have a chance to get back on your feet. But farmers are left out. Farmers are excluded because farmers do not lose their job when they are faced with a flood of unfairly traded imports. Instead, they are faced with a dramatic drop in income.

Instead, I would like to run through a number of charts that show the conditions facing American farmers today.

This shows what has happened to prices over the last 53 years. These are wheat and barley prices. These are in real terms, inflation adjusted, constant dollars. We have the lowest prices in 53 years. One reason is a flood of unfairly traded Canadian imports.

This is the result. This chart shows what the cost of production is. That is the green line. The red line shows what prices for wheat have been over the last 3 years.

Colleagues, wheat prices are far below the cost of production and have been for over 3 years, again partly because of a flood of Canadian imports unfairly traded.

The question is, Are we going to help farmers the same way we help other workers who are faced with this condition? I hope we say yes. I hope we recognize that it is simple fairness to extend the same protection to farmers we extend to other folks who are working for a living in this country.

This amendment is carefully crafted. It is limited to $10,000 per farmer per year with an overall cap cost of $100 million that is fully and completely paid for. We have an offset.

Interestingly, it is one of those rare circumstances where our offset is supported by the industry that would be paying. We have an offset that affects the real estate investment trust. It is supported by the real estate industry. They are willing to pay a little something more to get what they consider is a fair result. It is the same provision that was in the President's tax bill. It is the same provision that has had support on other matters before the Senate but not included in any final packages.

This matter is completely and fully offset. It simply allows that in a circumstance where the price of a commodity has dropped by over 20 percent as certified by the Secretary of Agriculture and where imports contributed importantly to this price drop, farmers will then be eligible for trade adjustment assistance.

This is the same standard the Department of Labor uses to determine whether workers are eligible for trade adjustment assistance when they lose their jobs. In order to be eligible, farmers would have to demonstrate their net farm income has declined from the previous year, and they would need to meet with the Extension Service to plan how to adjust the import competition.

If all of those conditions are met, training and employment benefits available to workers would then be available to farmers as an option.

My colleague, Senator GRASSLEY, is the cosponsor of this amendment and has played a key role in its development. I know he has words he would like to say about this measure as well.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise today in support of an amendment I am sponsoring with Senator CONRAD to establish a new, limited Trade Adjustment Assistance Program for farmers and fishermen. There are two key reasons why this new program is so necessary, and why Senator CONRAD and I are offering this legislation.

The first and most important reason is that the existing Trade Adjustment Assistance Program simply does not work for farmers. When a sudden surge in imports of an agricultural commodity dramatically lowers prices for that commodity, and sharply reduces the net income for family farmers, these farmers are undeniably hurt by import competition.

They are just as hurt as steel workers, or auto workers, or textile workers who experience the same thing. But because farmers lose income, but not their jobs, they do not qualify for the existing Trade Adjustment Assistance for workers program. The reduction in family farm income from important competition hurts farmers in a very serious way, because it comes at a time when farmers desperately need cash assistance to repay their operating loans and adjust to the import competition.

The second reason why I offer this legislation is to correct an inequity that should not continue. The inequity is that it is clear that President Kennedy, who designed the original Trade

Adjustment Assistance program as part of the Trade Expansion Act of 1962, clearly intended farmers to benefit from the program, just as much as other workers hurt as a result of a federal policy to reduce barriers to foreign trade. In his message to the Congress on the Trade Expansion Act of 1962, President Kennedy spoke about his Trade Adjustment Assistance Program. In fact, in his March 12, 1962 message, he referred to farmers at least three times.

Here is part of what President Kennedy said.

> I am recommending as an essential part of the new trade program that companies, farmers, and workers who suffer damage from increased foreign import competition be assisted in their efforts to adjust to that competition. When considerations of national policy make it desirable to avoid higher tariffs, those injured by that competition should not be required to bear the brunt of the impact. Rather, the burden of economic adjustment should be borne in part by the Federal Government.

What President Kennedy said was so important I want to emphasize what he said: those who are injured by the national trade policies of the United States should not bear the brunt of the impact. And trade adjustment assistance should be available for companies, farmers, and workers.

Mr. President, this is simply an issue of fairness. Basic American fairness. The United States has lead the world in liberalizing trade. We started this process of global trade liberalization in 1947, when most of the world was reeling from the enormous physical and economic devastation of World War Two. We saw then that the way to avoid this type of catastrophe in the future was to bring nations closer together through peaceful trade and open markets. That process has been spectacularly successful. Through eight series, or rounds, of multilateral trade negotiations, we have scrapped ten of thousands of tariffs. Many non-tariff trade barriers have been torn down. Others have been sharply reduced. The result of 50 years of trade liberalization has been the creation of enormous wealth and prosperity, and millions of new jobs. But not everyone has prospered.

Some have been injured by this deliberate policy of free trade and open markets. And that's exactly why President Kennedy and the 87th Congress created the Trade Adjustment Assistance program. To help those injured by our national policy of free trade and open markets adjust to their changing circumstances with limited assistance.

President Kennedy's Secretary of Labor, Arthur J. Goldberg put it the best. Secretary Goldberg said:

> As a humane Government, we recognize our responsibility to provide adequate assistance to those who may be injured by a deliberately chosen trade policy . . . It is because of the desire to do justice to the people who are affected. . .

Mr. President, we cannot do justice by helping only some of the people affected by our national trade policy. We cannot do justice by ignoring farmers. We must do justice by ignoring farmers. We must reach out to everyone, including farmers, just as President Kennedy envisioned. Now, I know there are some in this Chamber who believe that we should wait to make changes in the Trade Adjustment Assistance program until we can do a full review of the entire TAA program.

I do not agree with that view, for a very fundamental reason. We are only about four weeks away from the start of the WTO Ministerial Conference in Seattle. In Seattle, the United States will help launch the ninth series, or round, of multilateral trade negotiations since 1947.

A key goal of the Seattle Ministerial will be to liberalize world agricultural markets even more. This will mean increased import competition for American agricultural products, not less. Farmers have always been among the strongest supporters of free trade, because so much of what they produce is sold in the international marketplace.

The income our farm families earn in these foreign markets sustains our economy, and contributes greatly to our national well-being. But farm support for free trade cannot, and should not, be taken for granted.

As I said in support of this legislation last week, we are in the worst farm crisis since the depression of the 1930s. Now, low commodity prices are not caused exclusively by import competition. But it is certainly a contributing factor to these historically low prices.

If we lose the support of the farm community for free trade, Mr. President, I doubt that we will be able to win congressional approval for any new trade concessions that may be negotiated in the new round of trade talks. So this is all about fairness. It is about equality. It is about common sense.

For all of these reasons, and because, as Labor Secretary Goldberg said 37 years ago, we must recognize our responsibility as a humane government, I strongly urge my colleagues to support this amendment.

Mr. MURKOWSKI. Mr. President, I am pleased to support the amendment (#2359) proposed by Senators CONRAD and GRASSLEY which would tailor the Trade Adjustment Assistance program so that it helps farmers and fishermen—two groups that are not adequately assisted under the current TAA program.

I voted for this amendment at the Finance Committee markup, and was disappointed that it failed by a narrow margin. But I am pleased that Senators CONRAD and GRASSLEY persevered in pushing this important issue forward. I also want to thank the authors of this amendment for working with my staff to ensure that the provisions cover fishermen in Alaska and Louisiana and other areas along with farmers in the Midwest because these two groups face similar problems.

Finally, I thank the Chairman and Ranking Member of the Finance Committee, Senator ROTH and Senator MOYNIHAN, for accepting this amendment today. I urge them to insist on retaining this language at conference with our House colleagues.

I have long been an advocate of opening markets abroad for U.S. exporters, and putting in place rules to facilitate trade between the nations. I voted for the NAFTA and the Uruguay Round. I support the Finance Committee managers' amendment to the underlying bill which will change our focus in Africa from aid to trade, will give the Caribbean nations parity in their trade with the United States. In addition, I support reauthorizing two important programs; the Trade Adjustment Assistance program and the Generalized System of Preferences program.

But even as we pursue liberalized trade initiatives, we must work harder to help Americans adjust to a changing business climate that is often affected by events half way around the World. For while we can take pride in an historically low unemployment rate nationwide that occurred partly as a result of our open and innovative workplace and trading rules, certain sectors and certain parts of the country are still facing employment losses or income losses as a result of low worldwide commodity prices. Fishermen and Farmers fall in this category.

Let me just use one example. An Alaskan fishing Sockeye Salmon was getting $1.18 per pound in 1996. But last year, that price had sunk to 85 cents—a 28% drop, and a 17% drop over the five-year average. And the drop came in the face of rising imports. Foreign imports of seafood have steadily risen since 1992 while exports have steadily fallen over the same period.

The current TAA program is better suited to traditional manufacturing firms and workers, than to farmers and fishermen. When imports cause layoffs in manufacturing industries, workers are eligible for TAA. In my own state of Alaska, TAA has played an important role both in the oil industry and for the seafood processors. But an independent fisherman does not go to the dock and receive a pink slip, he goes to the radio and hears the latest price for salmon, and he knows that his family's livelihood is threatened. TAA has not been available in his circumstances.

As the authors of this amendment have explained, the TAA for Farmers and Fishers would set up a new program where individual farmers could apply for assistance if two criteria are met.

First, the national average price for the commodity for the year dropped more than 20% compared to the average price in the previous five years.

Second, imports ''contributed importantly'' to the price reduction.

If these two criteria are met, fishermen would be eligible for cash benefits based on the fishermen's loss of income. The cash benefits would be

capped at $10,000 per fisherman. Retraining and other TAA benefits available to workers under TAA also would be available to fishermen interested in leaving for some other occupation.

Mr. President, I believe that this change in the TAA program is long overdue. Again, I want to stress that the traditional TAA program still plays an important role, and I do not want to diminish its current role—but to expand it. The TAA program averts the need for more money in unemployment compensation, welfare, food stamps and other unemployment programs—in short, it keeps Americans employed and able to support themselves and their families.

Let me end, Mr. President, by returning to a few points on the underlying bill. It is unfortunate, in my view, that this might be the only piece of trade legislation that we move this entire Congress.

As you might guess, trade with Africa and the Caribbean Basin countries is not that important to Alaska. I am deeply disappointed that we are not looking at a WTO agreement with China. I continue to believe that President Clinton made a mistake by rejecting the deal that was put together in April, and might not ever get put back together in the same manner. I am also deeply disappointed that we have not considered trade negotiating authority that would be a strong vote of confidence as our negotiators head to the Seattle Round.

Nevertheless, I commend the Chairman of the Finance Committee, Senator ROTH, and the Ranking Member, Senator MOYNIHAN, and our Majority Leader for bringing this legislation to the floor. Perhaps, if we are able to move forward on this piece of legislation, the logjam will be broken. Let's hope.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, in view of the very persuasive arguments of my two colleagues, I ask unanimous consent, notwithstanding the prior consent agreement regarding the Conrad-Grassley amendment, that the amendment be agreed to.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I join my chairman in saying this is a valuable amendment. Having been involved in drafting the legislation in 1962 which created the Trade Adjustment Assistance Act, I think this is an important extension of the same principle.

It is altogether agreeable to this Senator. I hope there will be no objection.

Mr. GRASSLEY. We thank the Senator very much.

Mr. MOYNIHAN. Thank me?

Mr. GRASSLEY. All of you.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2359) was agreed to.

Mr. CONRAD. Mr. President, I thank the chairman and ranking member for their support of the amendment. We appreciate it very much.

I think this amendment is a matter of fairness. I deeply appreciate the response today. I hope this will prevail through the conference. I have the utmost confidence in the chairman's ability to persuade our colleagues over on the House side of the merits of this amendment.

I again thank the chairman. I thank our ranking member, who all along has recognized that this is a logical extension of trade adjustment assistance we provide other workers in our economy.

I thank also my cosponsor, Senator GRASSLEY from Iowa. He and I have worked together closely not only on this amendment but many other matters as well. I thank him very much for his leadership and support.

I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, be made an original cosponsor of amendment No. 2408 relating to anticorruption efforts.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2406

(Purpose: To ensure that the trade benefits accrue to firms and workers in sub-Saharan Africa)

Mr. FEINGOLD. Mr. President, I call up my amendment numbered 2406.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. FEINGOLD) proposes an amendment numbered 2406.

Mr. FEINGOLD. 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:

Strike Sec. 111 and insert the following:

SEC. 111. ELIGIBILITY FOR CERTAIN BENEFITS.

(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended by inserting after section 506 the following new section:

"SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.

''(a) AUTHORITY TO DESIGNATE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 4 of the African Growth and Opportunity Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b), if the President determines that the country—

''(A) has established, or is making continual progress toward establishing—

''(i) a market-based economy, where private property rights are protected and the principles of an open, rules-based trading system are observed;

''(ii) a democratic society, where the rule of law, political freedom, participatory democracy, and the right to due process and a fair trial are observed;

''(iii) an open trading system through the elimination of barriers to United States trade and investment and the resolution of bilateral trade and investment disputes; and

''(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, and promote the establishment of private enterprise;

''(B) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

''(C) subject to the authority granted to the President under section 502 (a), (d), and (e), otherwise satisfies the eligibility criteria set forth in section 502;

''(D) has established that the cost or value of the textile or apparel product produced in the country, or by companies in any 2 or more sub-Saharan African countries, plus the direct costs of processing operations performed in the country or such countries, is not less than 60 percent of the appraised value of the produce at the time it is entered into the customs territory of the United States; and

''(E) has established that not less than 90 percent of employees in business enterprises producing the textile and apparel goods are citizens of that country, or any 2 or more sub-Saharan African countries.

''(2) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of each country listed in section 4 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of subsection (a). The President shall include the reasons for the President's determinations in the annual report required by section 105 of the African Growth and Opportunity Act.

''(3) CONTINUING COMPLIANCE.—If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

''(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

''(1) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1) (B) through (G) (except for textile luggage) that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 503(e), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

''(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

''(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and

''(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries shall be applied in determining such percentage.

''(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title, the terms 'beneficiary sub-Saharan African country' and 'beneficiary sub-Saharan African countries' mean a country or countries listed in section 4 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.''.

''(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title, the terms 'beneficiary sub-Saharan African country' and 'beneficiary sub-Saharan African countries' mean a country or countries listed in section 104 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.''.

(b) WAIVER OF COMPETITIVE NEED LIMITATION.—Section 503(c)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2463(c)(2)(D)) is amended to read as follows:

''(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any beneficiary sub-Saharan African country.''.

(c) TERMINATION.—Title V of the Trade Act of 1974 is amended by inserting after section 506A, as added by subsection (a), the following new section:

''SEC. 506B. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.

''In the case of a country listed in section 104 of the African Growth and Opportunity Act that is a beneficiary developing country, duty-free treatment provided under this title shall remain in effect through September 30, 2006.''.

(d) CLERICAL AMENDMENTS.—The table of contents for title V of the Trade Act of 1974 is amended by inserting after the item relating to section 505 the following new items:

''506A. Designation of sub-Saharan African countries for certain benefits.

''506B. Termination of benefits for sub-Saharan African countries.''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2000.

Mr. FEINGOLD. Mr. President, as the Senate considers the African Growth and Opportunity Act, we have to keep asking ourselves the key question: Growth and opportunity for whom?

It is an important question because the Africa trade legislation we are now considering does not require that Africans themselves be employed at the firms that are going to receive the trade benefits. In fact, AGOA, as it now stands, actually takes a step backwards for Africa. The GSP program requires that 35 percent of a product's value added come from Africa, but this legislation actually lowers the bar to 20 percent.

Under this scheme, it is possible that a product would meet the 20-percent requirement and qualify for AGOA benefits. For example, if non-African workers physically standing in West Africa simply sewed a ''Made in Togo'' label on apparel and then shipped it to the United States, that is all they would have to do. It makes something of a mockery of how this is supposed to help African countries and African workers.

This plan undercuts the potential for trade to boost African employment and encourages transshipment of goods from third countries seeking to evade quotas. As I said before on the other amendment, the U.S. Customs Service has determined that for every $1 billion of illegally transshipped products that enter the United States, 40,000 jobs in the textile and apparel sector are lost.

So this amendment would also fight transshipment but in another way, requiring that 60 percent of the value added to a product has to come from Africa. It is a significant improvement over the 20 percent of the bill. I think it is an appropriate improvement over the 35 percent of the GSP standard.

This amendment also emphasizes African opportunities. It requires that any textile firm receiving trade benefits must employ a workforce that is 90-percent African. This doesn't mean that all 90 percent of the people have to come from a particular African country where the company might be or the activity might be, but they do have to be citizens of an African country.

This provision holds out an incentive to African governments, businesses, and civil society to develop their human resources. That would not only be good for Africa; it would be good for America, as well as our trading partners in the region gaining economic strength.

Without these amendments, this legislation offers neither growth nor opportunity to Africans themselves. In fact, unless the Senate makes these changes, we will simply see a continuation of a disturbing trend.

In the first 4 years of this decade, corporate profits in Africa average 24 to 30 percent compared with 16 to 18 percent for all developing countries. But real wages in Africa continue to fall, as they have for nearly three decades now. The number of African families unable to meet their basic needs has doubled. It would be irresponsible to pass an African trade bill that reinforced this dangerous disconnect between corporate profits and African wages.

I know my colleagues who support the African Growth and Opportunity Act do so because they genuinely want to engage with the continent. I share their goal, and I believe this amendment would push U.S. Africa policy in that direction by linking economic growth and human development protecting both African and American interests.

I ask my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in opposition to Senator FEINGOLD's amendment which incorporates provisions of S. 1636, the HOPE for Africa Act.

Frankly, this legislation would be better described as the ''No Growth and No Opportunity Act.'' Even a cursory reading of the provisions reflect an intent to throttle any form of productive investment in Africa. Rather than offering the nations of sub-Saharan Africa the opportunity to lift themselves out of poverty on their own terms, this bill says Africa will have to do so on our terms or not at all.

Let me explain why.

The sponsors of the bill have made two principal arguments on its behalf: First, that it would expand trade; second, that it would yield responsible investment in Africa. In fact, the bill would have the opposite effect on both counts. The bill would actually impose greater restrictions on trade with Africa than would currently be the case and would actively discourage any form of private investment.

For example, under the current GSP program, the rules require that products from beneficiary countries must contain 35-percent value added for the beneficiary country to qualify; and the HOPE for Africa bill would raise that to 60 percent, which would effectively end any prospects for firms in African countries that hope to enter into production-sharing arrangements for the assembly of products in Africa.

Current law does not impose any requirement that all employees of an enterprise be from the beneficiary country for the company's product to qualify. But the HOPE for Africa bill would dictate that 90 percent of the employees of any enterprise producing textile and apparel goods must be citizens of beneficiary countries. In other words, no legal residents or immigrants would be employed in these plants above a certain set limit.

How, I wonder, would the U.S. Customs Service enforce these provisions? Would U.S. Customs have to investigate and certify every plant in advance? Would Customs have to require reports on all new hires by the individual enterprise? Or would Customs have to be involved in the individual firm's hiring decisions from the start in order to be sure the firm was precisely at 90-percent employment from beneficiary countries?

In short, the amendment does exactly the opposite of what it purports to do. I therefore urge my colleagues to vote against this amendment.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, in response to the chairman's remarks, I believe those provisions would be enforceable. We already have a mechanism where an import's country of origin must be verified. The consent must also be verified. I suggest we use the same mechanisms in place to certify African value content. In fact, it was indicated under GSP that it is a 35-percent requirement and under this bill is a 20-percent requirement.

The question doesn't seem to be whether we can enforce it or identify it; the question seems to be, What should the percentage be?

In response to the broader point that somehow this is going to be unfair to the countries of Africa, it is just the opposite. What we are trying to avoid

with this amendment is, in effect, the exploitation of African countries as a way for other countries to get away with something they can do right now very easily; for example, the Chinese willingness here to use transshipment through African companies to undercut American jobs. All we are trying to do is have a reasonable assurance, in two ways, that Africans are actually having a chance to do the work and they are actually contributing to the product.

A 60-percent requirement is not 100 percent, it is a reasonable level. It still leaves room for joint activities with other entities. And a 90-percent requirement is not restricted, as the chairman has suggested, to one country, but 90 percent have to be African citizens of any one of the over 50 African countries. It still leaves a 10-percent possibility for workers from other countries. If we don't do this, this proposal has nothing to do with making sure African workers get an opportunity to have a decent living and to have these economic opportunities. This bill has to be a two-way street at some level, Mr. President; it is not that now. This amendment is a good-faith effort to make it more balanced and to be fairer to African workers. I strongly suggest it is a modest step that needs to be taken to improve this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I don't wish to suggest there is anything but good intentions behind all these measures. But to introduce the idea of—is it citizenship we are talking about, ancestry, or what? What is an African, sir? South Africa would be part of the arrangements in this African Growth Act.

Suppose there was a plant in Johannesburg that was owned by the descendants of Dutch settlers who arrived in the 17th century; some of the managers were Indian persons who had emigrated in the 19th century under the British Empire—under the British Empire, people moved all over the world. We recently had the great honor of meeting, just off the Senate Chamber, with heads of state from the Caribbean area, and the President of Trinidad and Tobago is of Indian ancestry. That is very normal. Indians moved to California, having gone to the British Empire and gone to Canada and were coming down. And suppose there were Zulu workers there—African, obviously, but they are more recent arrivals than most.

Mr. FEINGOLD. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to.

Mr. FEINGOLD. I wish to ask a question. Our bill only provides that 90 percent of the people who work in the firm have to be citizens of an African country. It does not suggest in any way anything about their ethnic or racial background. I am very sensitive to that. I wonder if the Senator is aware that that is the only requirement, so anyone who is a citizen of any one of the African countries, regardless of their background, would be within the 90 percent.

Mr. MOYNIHAN. I am aware of that, and I recognize that is a very reasonable thought. But I do know, from some experience in that part of the world, that citizenship is not a standard statutory entitlement of the individual, as it would be—well, even in our country, if you come here, you have to go through a great deal to become a citizen. If you are born here, you already are. That can be a very ambiguous situation, sir. I don't know.

May I ask my friend, are Mauritians Africans or Indians? One of the big issues, I can say to the Presiding Officer, is that in Mauritius a considerable textile trade has developed with Mauritian sponsors and Chinese migrant workers. Are Mauritians Africans?

Mr. FEINGOLD. If you are suggesting they are citizens of Mauritius, for the purposes of this bill, they would certainly qualify as people who could be counted within the 90 percent.

Mr. MOYNIHAN. If you are on the Indian Ocean, how sure are you that you are in Africa?

Mr. FEINGOLD. It is the definition of African countries as set forth in the bill. I believe that would be in the list of countries.

Mr. MOYNIHAN. I get to the point, and I don't make it in any hostile manner. I just say the complexities of the world, just that part of it, are very considerable. I am reluctant to see such categories enter trade law. No one has ever asked whether the products of the American clothing workshops in New York City were made by American citizens. There surely would have been a time when the majority—or many of them—were not American citizens at all. They would have come from what would become Poland, and there was no concept of citizenship for the occupants of the shtetls. I just suggest there is considerable ambiguity. I don't wish to press the matter.

I yield the floor.

Mr. FEINGOLD. Mr. President, in response to that, I recognize the argument regarding American history. Surely there is a different scenario when we talk about African countries.

The problem I am trying to address—and I appreciate the Senator's point—is that we are fearful, with good reason, that African countries will be used as a conduit to allow the kind of activity the Chinese entities obviously intend to pursue, which is to essentially run these products through an African country, stamp the label on it, not really let Africans play a significant role in producing the product, and undercut our quota laws. That is the reason for doing this. I don't think it is particularly difficult to administer or to do when we suggest we are talking here about citizenship of an African country without any other criteria.

We do allow for migration in Africa. We allow for Africa seeking out opportunities where they find them. We are trying to make sure this is some nexus between this legislation and the opportunities for Africans to benefit, as well as large corporations that may benefit. This is an attempt to make the bill better. I think it is one that is not too difficult to achieve.

I yield the floor.

Mr. MOYNIHAN. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. HOLLINGS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me join in with the distinguished Senator from Wisconsin.

One of the areas I am trying to find with respect to the amount of work or the amount of production or percent of production of an article, it was found by merely placing the label on the article because one had to unload, load back, and assimilate in a particular way in order to get the label. The mere labeling was considered to be 20 percent. That would have complied with parts of this particular CBI/Sub-Sahara bill.

The requirement of the Senator from Wisconsin at 60 percent makes sure we can't get this specious argument about the percentage and the extra work of loading and unloading and putting it through a different set of machinery, tools, adding a label. That constitutes 20 percent. I understand the intent is to get investment and jobs with respect to the Caribbean Basin and with respect to the sub-Sahara countries. There is no question it is well considered. It ought to be at least 60 percent, as called for by Senator FEINGOLD's amendment.

With respect to my colleague, the distinguished senior Senator from New York, dramatically asking the question, Can anybody name a country where they don't want American investment? That is very easily done. Go to Japan. They started this. Companies still can't get investment there unless the investment doesn't pay off as an investment. Companies have to have a license technology, make sure the jobs are there, make sure the profits stay there.

We have been trying to invade the Japanese market for 50 years without success. They have their Ministry of Finance. They have their Ministry of Industry and Trade (MITI). There is no question, companies can't get in there.

Go to China. Ask Boeing how they got in China. Read the book ''One World Ready or Not.'' It was pointed out, 40 percent of the Boeing 777 parts are not made up in Seattle or anywhere in the United States; they are made by investments in China. How do those investments happen? They said yes, you

can invest here if you license the technology, if you produce the parts and create the jobs here and keep your profits here. That is fine business.

To the rhetorical question, Does anyone know of a country that doesn't want the American dollar? That is what they are talking about. I can tell Members, as we look at the stock market, they are going from the American dollar to the Japanese yen or to the Deutsche mark. We will be devaluing that dollar shortly at the rate of $300 billion trade deficit and $127 billion fiscal deficit. We did not run a surplus at the end of September; we ran a deficit of $127 billion. That is according to the Treasury's own figures we submitted.

Yes, I can answer that question readily. These countries don't want investment unless you can get what I am trying to get. I am trying to get the jobs. I am trying to get the investment.

Don't tell a southern Governor how to carpetbag. We have been doing that for years on end. I know it intimately. I have traveled all over this country trying to solicit and bring industry to South Carolina. I was the first Governor in the history of this country to go to Latin America, and later took a gubernatorial mission after the election in 1960 with some 27 State Governors, trying to get investment into South Carolina. I traveled to Europe. I called on Michelin in June of 1960. Now we have beautiful plants and the North American headquarters of Michelin. We can go down the list.

We know how to do it, and the others are doing it to us. We understand that. However, there is a degree of takeover, so to speak, or export of these jobs. We cannot afford it, particularly in the textile area. It will happen in all the other hard industries, as has been characterized by Fingleton, if this continues.

Rather than talk about the agriculture getting a special trade representative—agriculture is never left out. The Secretary of Agriculture is always there, the special trade representative, the export-import financing is there; everything is there for agriculture. I don't mind them putting this amendment on there, but it points up, if Members get politically the right support, they can get their amendment accepted around here even though it is not germane and it is not relevant.

However, if one gets a good amendment as required, as both the chairman of the Finance Committee and the ranking member required in the NAFTA bill, it was included in the NAFTA bill. Fortunately, the ranking member did vote with us. The chairman of the Finance Committee went along and supported the side agreements with respect to labor, the side agreement with respect to the environment, and the reciprocity from both Canada and Mexico.

The PRESIDING OFFICER. The Senator from South Carolina has used his hour under cloture.

Mr. ROTH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

There are 4 minutes equally divided before the vote.

AMENDMENT NO. 2379

Mr. HOLLINGS. Mr. President, the Senator from Delaware said this amendment would discourage investments. The very same amendment was included at his behest in the Finance Committee on NAFTA. It has not discouraged investment whatever in Mexico. On the contrary, the Koreans, the Chinese, Taiwanese, the Americans, everyone is investing like gangbusters down in Mexico.

That is what they talk about, the success of NAFTA. So this is worded to include the language exactly as they have included it in the NAFTA agreement. Could it be on labor rights that this body wants to put a stamp of approval on a situation such as the example I gave of a 13-year-old young girl working 100 hours at 13 cents an hour until 3 in the morning? Do we want that kind of thing going on?

I am sure we do not want to put the stamp of approval on the threats they will be killed when they ask for certain labor considerations down in Honduras. I went through all of those particular examples.

We do not want to invest in scab labor. What we want to invest in is an opportunity and an improved lot with the Caribbean Basin Initiative here. So it is, the amendment should not be tabled. It is in force, working with respect to NAFTA. There is no reason why it cannot work in this particular place.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise to urge my colleagues to table the amendment. I do so for two reasons. First, as I have stated previously, the goal of this legislation is to encourage investment in Africa, the Caribbean, and Central America. This amendment would undermine that effort by requiring the difficult negotiations of side agreements that would delay the incentive the bill would create. That, I argue, is of no help to these developing countries and will not lead to any great improvement in their labor standards.

The second reason I oppose the amendment is that it essentially depends on economic sanctions to work. Its threat is that the economic benefits of the beneficiary countries will be cut off if the countries do not comply with the terms of some agreement yet to be negotiated. That not only undercuts the investment incentive by increasing the uncertainty of a country's participation in the program, but it also does little to raise labor standards. For that reason, I urge this amendment be tabled.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I join the chairman in urging this matter be tabled. We have a fine underlying bill and we hope to take it to conference with as little encumbrance as can be, certainly none to which there would be instant objection on the House side.

I yield the floor.

Mr. ROTH. Mr. President, under the provisions of the previous consent, I now move to table the amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2379.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced, yeas 54, nays 43, as follows:

[Rollcall Vote No. 345 Leg.]

YEAS—54

Abraham	Fitzgerald	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Baucus	Graham	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Roberts
Brownback	Hagel	Roth
Bunning	Hatch	Santorum
Burns	Hutchinson	Sessions
Cochran	Hutchison	Smith (NH)
Coverdell	Inhofe	Smith (OR)
Craig	Jeffords	Specter
Crapo	Kerrey	Stevens
DeWine	Kyl	Thomas
Dodd	Landrieu	Thompson
Domenici	Lieberman	Voinovich
Enzi	Lott	Warner

NAYS—43

Akaka	Feingold	Murray
Bayh	Feinstein	Reed
Biden	Harkin	Reid
Bingaman	Helms	Robb
Boxer	Hollings	Rockefeller
Bryan	Inouye	Sarbanes
Byrd	Johnson	Schumer
Campbell	Kennedy	Shelby
Cleland	Kerry	Snowe
Collins	Kohl	Thurmond
Conrad	Lautenberg	Torricelli
Daschle	Leahy	Wellstone
Dorgan	Levin	Wyden
Durbin	Lincoln	
Edwards	Mikulski	

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

CHANGE OF VOTE

Mr. ROCKEFELLER. Mr. President, on Hollings amendment No. 2379, the junior Senator from West Virginia voted ''aye'' and wishes to change his vote to ''nay.'' I ask unanimous consent to be able to change my vote. My

change of vote would have no effect on the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2428

Mr. MOYNIHAN. Mr. President, I believe a vote is scheduled.

The PRESIDING OFFICER (Mr. HAGEL). The Senator is correct.

There are 4 minutes evenly divided for debate prior to the vote.

Who yields time?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, this amendment simply intends to try to make sure that the African portion of this legislation does not become a mechanism whereby governments or businesses from China, for example, ship their goods through Africa as a way to evade American quotas.

This is another process called transshipment. During the debate, I pointed out that on a web site of the Chinese Government, they essentially say this is exactly what they are going to do. It is what they are already doing.

We have put some responsibility on importers. American importers will have the benefit of this bill to make sure they vouch for the legitimate content of this product having some characteristic of being actually from Africa. It is a very important provision to make sure this bill has some balance and it doesn't threaten American jobs. The figures I quoted indicate that for every $1 billion in illegally transshipped goods, it costs about 40,000 American jobs in the textile and related areas.

This is a very straightforward amendment that opposes the practice of transshipment I think every Member of this body would like to support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in opposition to the amendment and ask that it be tabled.

First, the Finance Committee bill already contains the specifically enhanced transshipment provisions beyond those contained in the House bill. The Finance Committee bill would suspend exporters and importers from the benefits of the program for 2 years if found to have transshipped in violation of the rule.

Second, the Customs Service already has extensive power to combat transshipment. Let me be clear what transshipment is. It is Customs law. Customs already has the enforcement power to address these concerns.

Mr. President, I ask unanimous consent that the remaining votes in this series be limited to 10 minutes in length.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to associate myself with the chairman and note that this measure, among other things, provides for up to 5 years imprisonment for a third dispute. We don't want to criminalize international trade.

Mr. ROTH. Mr. President, let me add that the Senator from Wisconsin has done nothing to address my concerns regarding the constitutional infirmity of his amendment. As I have already stated, my colleague's amendment would expose individuals to criminal and civil penalties without the due process required by the U.S. Constitution. That is simply unconscionable.

I therefore urge my colleagues to vote to table the amendment.

Mr. FEINGOLD. Mr. President, I wish to respond to both the chairman and the ranking member.

They have suggested, it seems to me, that somehow this provision automatically involves imprisonment. That is simply not correct. Under the first offense, there is only a civil penalty involved for the importer in the amount equal to 200 percent of the declared value of the merchandise. A second offense then would involve perhaps up to 1 year of imprisonment. It is only in a third offense that it would be 5 years.

It is simply not correct to suggest that if somebody makes a mistake once, suddenly they are going to be imprisoned. It is not nearly as harsh as that. It is a reasonable series of penalties for people who are going to get enormous benefit under this legislation.

Mr. MOYNIHAN. Mr. President, the Senator is correct. I believe I said the provision provided ''up to'' on the third event. But we will not dispute it. The facts are accurately stated by the Senator from Wisconsin.

The PRESIDING OFFICER. Is all time yielded?

Mr. ROTH. I yield the remainder of my time.

The PRESIDING OFFICER. The question is on the motion to table amendment No. 2428. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 346 Leg.]

YEAS—53

Abraham	Bond	Craig
Allard	Breaux	Crapo
Ashcroft	Brownback	Daschle
Baucus	Burns	DeWine
Bayh	Cochran	Domenici
Bennett	Coverdell	Enzi
Feinstein	Kerrey	Roberts
Fitzgerald	Kyl	Roth
Frist	Lieberman	Santorum
Gorton	Lincoln	Shelby
Graham	Lott	Smith (OR)
Gramm	Lugar	Stevens
Grams	Mack	Thomas
Grassley	McConnell	Thompson
Hagel	Moynihan	Voinovich
Hatch	Murkowski	Warner
Hutchinson	Murray	Wyden
Jeffords	Nickles	

NAYS—44

Akaka	Feingold	Mikulski
Biden	Harkin	Reed
Bingaman	Helms	Reid
Boxer	Hollings	Robb
Bryan	Hutchison	Rockefeller
Bunning	Inhofe	Sarbanes
Byrd	Inouye	Schumer
Campbell	Johnson	Sessions
Cleland	Kennedy	Smith (NH)
Conrad	Kerry	Snowe
Collins	Kohl	Specter
Dodd	Landrieu	Thurmond
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Edwards	Levin	

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2483

The PRESIDING OFFICER (Mr. SMITH of Oregon). Under the previous order, there are 4 minutes of debate equally divided for the motion to table amendment No. 2483. The Senate will be in order. Who yields time? The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this amendment is nothing more than the previous amendment on side agreements on labor. This one would require the side agreements with respect to the environment. The distinguished Presiding Officer knows I know the feeling of strength out on the west coast for the environment. I have traveled up there, for example, in Puget Sound and have had the hearings with Dixie Lee Ray when she was the oceanographer, John Linberg, and all the rest. I come back to the statement by my distinguished ranking member quoted in the Wall Street Journal this morning——

Mr. MOYNIHAN. Mr. President, we do not have order. We cannot hear the Senator from South Carolina.

The PRESIDING OFFICER. The Senators will take their conversations to the Cloakroom.

The Senator from South Carolina.

Mr. HOLLINGS. As quoted in the morning Wall Street Journal, the distinguished Senator MOYNIHAN of New York said:

> We were planning to spend a few days in Seattle, just meeting people.

But if you could not get this bill passed, they would not have any credibility.

> I don't want to show my face.

I know in general the Democrats are considered prolabor and the Republicans are considered generally as antilabor. But with respect to the environment it has been bipartisan. There

was no stronger protector of the environment than our late friend, John Chafee of Rhode Island. He led the way for Republicans and Democrats. I would not want to show my face in Seattle, having voted that you could not even sit down, talk, and negotiate something on the environment, the very same provisions that the chairman of the Finance Committee required in the NAFTA agreement. It is in the NAFTA agreement. I am only saying, since we are going to extend NAFTA to the CBI, let's put the same requirements there with consideration for the environment.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I say that will teach me to ask for order when the Senator from South Carolina is speaking.

But we are required, as managers, to make the same point on this measure, this amendment, that we made on the earlier Hollings amendment. This would require us to negotiate 147 environmental agreements around the world before any of the provisions of the African bill or the Caribbean Basin Initiative or the tariff preferences under the Generalized System of Preferences can be extended.

NAFTA was a relatively simple three-party negotiation. We have very few differences with Canada, and such as we had with Mexico were worked out. In so many of the countries we are talking about in sub-Saharan Africa, the nation, the area, is an environmental disaster. That is why we are trying to develop some trade, some economic influx—trade not aid. We would not do it. What would be your standard for the Sudan? What would be your standard for parts of the Congo? What would you know about the country with which you are negotiating?

These are terribly distressed regions. We have had three decades of declining income, of rising chaos. The best hopes are the countries that want this agreement. We are not going to leave environment behind, but we should move ahead on this measure. I think my chairman agrees with me in this matter. I yield the floor.

The PRESIDING OFFICER. The time has expired.

Mr. MOYNIHAN. I move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2483.

The yeas and nays have previously been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—57

Abraham	Fitzgerald	Lugar
Allard	Frist	Mack
Ashcroft	Gorton	McConnell
Baucus	Graham	Moynihan
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Breaux	Grassley	Roberts
Brownback	Hagel	Roth
Bunning	Hatch	Santorum
Burns	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Coverdell	Jeffords	Smith (OR)
Craig	Kerrey	Specter
Crapo	Kyl	Stevens
DeWine	Landrieu	Thomas
Dodd	Lieberman	Thompson
Domenici	Lincoln	Voinovich
Enzi	Lott	Warner

NAYS—40

Akaka	Feingold	Murray
Bayh	Feinstein	Reed
Biden	Harkin	Reid
Bingaman	Helms	Robb
Boxer	Hollings	Rockefeller
Bryan	Inouye	Sarbanes
Byrd	Johnson	Schumer
Cleland	Kennedy	Snowe
Collins	Kerry	Thurmond
Conrad	Kohl	Torricelli
Daschle	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Mikulski	

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. LAUTENBERG. I ask unanimous consent that on a vote I cast on amendment No. 2483 which I indicated in the affirmative to table, I be permitted to change that vote without affecting the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

AMENDMENT NO. 2485

The PRESIDING OFFICER. There is now 4 minutes of debate equally divided on amendment No. 2485.

Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, by this vote we will determine whether we are for foreign aid or foreign trade. The truth is that the Marshall Plan in foreign aid is really a wonderful thing. We have defeated communism with capitalism. It has worked.

But now after 50 years, with running deficits in excess of $100 billion for some 20 years, we are just infusing more money into the economy than we are willing to take in. There was the deficit of $127 billion here just at the end of September for the year 1999; otherwise, running a deficit in the balance of trade of $300 billion; then with our current account deficit totaling $726 billion in the last 7 years and our net external assets really in the liabilities over the last 7 years from $71 billion to $831 billion.

We are going out of business. It would be a wonderful thing. But let's have some reciprocity. All we are saying is, when we make an agreement, we take some of these particular regulations affecting, for example, textiles—there is a whole book of them here—and if we lower ours, let them lower theirs.

Cordell Hull, 65 years ago, with the reciprocal trade agreements of 1934, is what got the country going again industrially, and that is what will get it going again if we obey the reciprocity that we included in NAFTA.

All I am trying to do, if we are going to extend NAFTA, let's have the same reciprocity we had in NAFTA in these particular CBI agreements.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I oppose the amendment. I do so for three reasons. The first reason, as I have stated previously, is that the purpose of this legislation is to encourage investment in Africa, the Caribbean, and Central America by offering these poverty-stricken countries a measure of preferential access to our markets.

This amendment would undermine that effort by making eligibility explicitly dependent on the offer of reciprocal benefits to the United States equivalent to those that the U.S. is entitled under NAFTA. This is a standard even the WTO members among the beneficiary countries could not currently satisfy.

The second reason I oppose the amendment is that the Finance Committee bill already instructs the President to begin the process of negotiating with the beneficiary countries under both programs for trade agreements that would provide reciprocal market access to the United States, as well as a still more solid foundation for the long-term economic relationship between the United States and its African, Caribbean, and Central American neighbors.

Finally, let me point out that the bill does encourage reciprocity where it really counts in the context of this bill. By encouraging the use of U.S. fabric and U.S. yarn in the assembly of apparel products bound for the United States, the bill establishes a solid economic partnership between industry in the United States and firms in the beneficiary countries. That provides real benefits to American firms and workers in the textile industry by establishing a platform from which American textile makers can compete worldwide. That is precisely the benefit our industry most seeks in the context of our growing economic relationship with both regions.

In short, I oppose the amendment and urge my colleagues to do so as well.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2484. 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 Arizona (Mr. MCCAIN) and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 348 Leg.]

YEAS—70

Abraham	Feinstein	Mack
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Moynihan
Baucus	Gorton	Murkowski
Bayh	Graham	Murray
Bennett	Gramm	Nickles
Biden	Grams	Reid
Bingaman	Grassley	Roberts
Bond	Hagel	Roth
Breaux	Harkin	Santorum
Brownback	Hatch	Schumer
Bryan	Hutchinson	Sessions
Burns	Hutchison	Shelby
Cochran	Inhofe	Smith (OR)
Conrad	Jeffords	Specter
Coverdell	Kerrey	Stevens
Craig	Kerry	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Voinovich
DeWine	Leahy	Warner
Dodd	Lieberman	Wellstone
Domenici	Lincoln	Wyden
Enzi	Lott	
Feingold	Lugar	

NAYS—27

Akaka	Edwards	Mikulski
Boxer	Helms	Reed
Bunning	Hollings	Robb
Byrd	Inouye	Rockefeller
Campbell	Johnson	Sarbanes
Cleland	Kennedy	Smith (NH)
Collins	Kohl	Snowe
Dorgan	Lautenberg	Thurmond
Durbin	Levin	Torricelli

NOT VOTING—2

Gregg	McCain

The motion was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2406

Mr. ROTH. At the request of the Senator from Wisconsin and with the approval of the senior Senator from New York, I ask that the yeas and nays be vitiated with respect to amendment No. 2406. I ask unanimous consent that the Senate conduct a voice vote on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion to table amendment No. 2406.

The motion was agreed to.

Mr. ROTH. I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, under rule XXII, I yield my hour to the Democratic leader.

Mr. THOMAS. Mr. President, under rule XXII, I yield my hour to the majority manager of the bill.

Mr. REED. Mr. President, under rule XXII, I yield my hour to the minority leader.

Mr. COCHRAN. Under rule XXII, I yield my hour to the majority manager.

Mr. EDWARDS. I yield 50 minutes allotted to me to the senior Senator from New York so he may yield to the junior Senator from Wisconsin.

Mr. LAUTENBERG. Under rule XXII, I yield my hour to the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 900

Mr. ROTH. I ask unanimous consent the majority leader, after consultation with the minority leader, may proceed to consideration of the conference report to accompany the financial services bill and provide further that the conference report has been made available and the conference report be considered as having been read and the Senate proceed to its immediate consideration.

I further ask that there be 4 hours equally divided between the chairman and the ranking minority member, an additional hour under the control of Senator SHELBY, 1 hour for Senator WELLSTONE, 30 minutes for Senator BRYAN, and 20 minutes for Senator DORGAN. I further ask consent that no motions be in order and a vote occur on adoption of the conference report at the conclusion or yielding back of my time without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. In light of this agreement, there will be no further votes this evening.

MORNING BUSINESS

Mr. ROTH. I ask unanimous consent the Senate now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOLUNTARY CONFESSIONS LAW

Mr. THURMOND. Mr. President, I rise today to express my deep disappointment at the Justice Department's decision not to defend a law of Congress regarding voluntary confessions.

Last evening, the Justice Department responded to the petition for certiorari from the Fourth Circuit Dickerson case, which had upheld 18 U.S.C. Section 3501, a law the Congress passed in 1968 to govern voluntary confessions. The Department refused to defend the law, arguing that it is unconstitutional under Miranda v. Arizona.

This position should not be surprising. Earlier, the Clinton Justice Department had refused to defend the law in the lower Federal courts. It had prohibited a career Federal prosecutor from raising the statute to prevent Dickerson, a serial bank robber, from going free, and had actively refused to permit other prosecutors from using the statute. However, it had held out the possibility that it would defend the law before the Supreme Court. Indeed, prior to the time the Department was forced to take a position in the Dickerson case, the Attorney General and Deputy Attorney General had indicated to the Judiciary Committee that the Department would defend Section 3501 in appropriate cases.

The Attorney General's refusal to enforce the law puts her at odds with her predecessors. Former Attorneys General Meese, Thornburg, and Barr have informed me through letters that they did not prevent the statute from being used during their tenures, and indeed, that the statute had been advanced in some lower court cases in prior Administrations. They added that the law should be enforced today. During a hearing on this issue in the Judiciary Criminal Justice Oversight Subcommittee, which I chair, all the witnesses except one shared this view.

The position of the Justice Department is also contrary to the views of law enforcement groups, which believe that Miranda warnings normally should be given but that we should not permit legal technicalities to stand in the way of an otherwise voluntary confession and justified prosecution. Most recently, according to press reports, even Federal prosecutors urged Justice officials to defend this law. It was all to no avail. In my view, the Department has a duty to defend this law, just as it should defend any law that is not clearly unconstitutional. Each court that has directly considered the issue has upheld the law. Nevertheless, the Justice Department will not abide by its duty to defend the statute, and I believe it is critical that the Congress file an amicus brief or intervene in the Supreme Court defending it.

In this case, the Justice Department has deliberately chosen to side with defense attorneys over prosecutors and law enforcement. It has deliberately chosen to side with criminals over victims and their families. This is a serious error. The Department should not make arguments in the courts on behalf of criminals. This is a sad day for the Department of Justice.

THUGGERY IN KOSOVO

Mr. BIDEN. Mr. President, I rise today to condemn in the strongest manner possible the anti-democratic violence that continues in Kosovo. This violence takes many forms, the most widely publicized of which is attacks by ethnic Albanians on Serbs and other minority groups in the province. KFOR and the U.N. Mission must stamp out these attacks immediately.

What has received less media attention is the intimidation, and occasional violence, within the ethnic Albanian

community. Recently there were public threats against the lives of two of Kosovo's most respected journalists, Veton Surroi and Baton Haxhiu, editors of the newspaper ''Koha Ditore.''

On my trip to Kosovo eight weeks ago, I met with Mr. Surroi. He had already spoken out against violence against Kosovo's Serbs and was already receiving private threats as a result. Mr. Surroi is a worldly, courageous democrat—exactly the sort of person that Kosovo needs to achieve genuine democracy.

During the same trip, I also met with Hashim Thaqi, political leader of the Kosovo Liberation Army. I told Mr. Thaqi that he and his forces would have to submit unconditionally to civilian authority and respect the rights of all political parties, ethnic groups, and individuals in Kosovo.

With this as background, Mr. President, I ask unanimous consent that an open letter published in Kosova Sot on October 29, 1999 by James R. Hooper, President of the Balkan Action Council, to Mr. Thaqi appear in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. Hooper, incidentally, testified before the Foreign Relations Committee earlier this year and is considered to be one of this country's most knowledgeable experts on the Balkans.

Mr. President, those of us in the Congress who supported the legitimate rights of the people of Kosovo to escape the brutality of Slobodan Milosevic will not stand idly by and watch a Serbian tyrannical master be replaced by an ethnic Albanian one.

As Mr. Hooper's eloquent letter makes clear, Mr. Thaqi and the other leaders of the Kosovo Liberation Army must immediately and forcefully speak out against the thuggery that is afflicting the province and take measures to eradicate it.

Mr. President, if they do not, they will lose the support of the international community. And without that support, they themselves have no political future.

I thank the Chair and yield the floor.

OCTOBER 29, 1999.

OPEN LETTER TO HASHIM THAQI: I am deeply troubled by the public threats against Veton Surroi and Baton Haxhiu of Koha Ditore that recently appeared in Kosovapress, the media organ associated with your organization. Surroi and Haxhiu are viewed in the United States and Europe as two of the most prominent supporters of democracy and free speech in Kosovo. If they are at risk, it means that Kosovo's hopes for democracy and free speech are jeopardized as well.

Your unwillingness to immediately condemn such extreme attacks on two outstanding representatives of Kosovo's civil society suggests that you hold a vision of Kosovo's political future in which those who democratically express differences of opinion will not be tolerated, and dissent will be harshly disciplined.

This in turn projects to your fellow citizens an anti-democratic attitude that is intolerable. And it conveys the impression to the international community that you and some of your former KLA colleagues maintain a hidden agenda for Kosovo that is far from democratic.

I want to make one thing absolutely clear: I am convinced there will be no support among Kosovo's friends around the world, including me, for the replacement of a Serbian dictatorship by an ethnic Albanian copy. If Kosovo's future is not to be democratic, then it will not likely be independent either. Independence must be earned in the democratic political arena as well as on the battlefield. Support among the American people and their elected representatives and government for the people of Kosovo would disappear rapidly if Kosovo moved in non-democratic directions.

Unfortunately, the actions of some who support you, and your own apparent indifference and inaction in the face of the killing of Kosovo citizens, are already jeopardizing the continuation of that support. The pattern of violence against Kosovo Serbs appears to reflect in part an organized effort by some in the former KLA to expel all Serbs from Kosovo. The murder of elderly Serbs and unarmed villagers evokes an atmosphere of terror in which innocent minorities are brutalized by those with the power to dispense victor's ''justice.''

A Kosovo in which the rights of non-Albanian minorities are routinely violated is not likely to prove respectful of Albanians whose views do not fit those of the prevailing forces. After all, this is the model Belgrade used for over ten years. A mono-ethnic Kosovo forcibly cleansed of its minorities through violence is unlikely to be a democratic Kosovo.

While you have spoken out against the killings of ethnic Serbs in the past, you have taken few serious steps to rein in those who are organizing the violence. I strongly urge you to take determined action to remove suspicions that you condone the violence against Kosovo's non-Albanian minorities and to condemn the threats to Veton Surroi and Baton Haxhiu.

JAMES HOOPER,
Executive Director,
Balkan Action Council.

OVERSEAS PRIVATE INVESTMENT CORPORATION

Mr. ALLARD. Mr. President, I am not going to ask for a recorded vote against S. 688, the re-authorization of the Overseas Private Investment Corporation. But I want to make it clear that I am not stepping back from my philosophies on this issue.

During my campaign for the United States Senate, I stressed the themes of balancing the budget, congressional reform, making government smaller, and moving the power out of Washington and into the states and localities. That is why I introduced the ''Overseas Private Investment Corporation Termination Act.''

I still fee it is time to end this form of subsidies for large companies. I have never believed in giveaway programs. Whether you are a farmer or a large corporation you should play by the rules of the free market system. Less government should be in the motto of this and every Congress.

OPIC may seem to have a good end goal but the problem is not the end but the means. Basically this is an insurance program run by the Federal Government for corporations who want to invest in risky political situations. This leads to the question, ''Is this the appropriate role for government?'' I don't believe so. But I also understand that the time is not yet ripe for ending this program.

I have met with the President of OPIC, George Munoz. He and I have agreed that our problem is not a conflict of interest, not different goals, and not a lack of proper communication. We merely have a fundamental philosophical difference. I believe free trade means free trade, not ''more free than others.''

I am a free trader. I am a supporter of the GATT and NAFTA. I believe that free trade is the best way to raise the living standards for all Americans. We need to support policies that reduce trade barriers. OPIC does not reduce trade barriers for all companies to compete in the marketplace. It is an income transfer program from U.S. taxpayers to a selected group of businesses. These subsidies may increase exports for a few selected companies that have the political influence to secure these loans, but it does little to expand the overall economic growth of this country.

OPIC's re-authorization will soon pass this Senate, but I wish it to be known that I still recommend its termination. I continue to worry that the majority of my colleagues will not fully understand the detrimental potentialities of this organization until the American taxpayer is stuck with a tremendous bill.

COSPONSORSHIP OF AMENDMENT

Mr. ROBB. Mr. President, on October 20, 1999, during debate over S. 1692, the Partial Birth Abortion Ban Act, I had asked to be added as a cosponsor of Senate amendment 2319, offered by Senator DURBIN. Unfortunately, my cosponsorship of this amendment was never reflected in the RECORD. Therefore, I ask unanimous consent that my name be added as a cosponsor of Senator DURBIN's amendment, and that the RECORD reflect that I was a cosponsor of this amendment when it was offered on October 20, 1999.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, November 1, 1999, the Federal debt stood at $5,664,867,046,795.77 (Five trillion, six hundred sixty-four billion, eight hundred sixty-seven million, forty-six thousand, seven hundred ninety-five dollars and seventy-seven cents).

Five years ago, November 1, 1994, the Federal debt stood at $4,728,710,000,000 (Four trillion, seven hundred twenty-eight billion, seven hundred ten million).

Ten years ago, November 1, 1989, the Federal debt stood at $2,879,489,000,000

(Two trillion, eight hundred seventy-nine billion, four hundred eighty-nine million).

Fifteen years ago, November 1, 1984, the Federal debt stood at $1,624,438,000,000 (One trillion, six hundred twenty-four billion, four hundred thirty-eight million).

Twenty-five years ago, November 1, 1974, the Federal debt stood at $479,476,000,000 (Four hundred seventy-nine billion, four hundred seventy-six million) which reflects a debt increase of more than $5 trillion—$5,185,391,046,795.77 (Five trillion, one hundred eighty-five billion, three hundred ninety-one million, forty-six thousand, seven hundred ninety-five dollars and seventy-seven cents) during the past 25 years.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:43 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2303. An act to direct the Librarian of Congress to prepare the history of the House of Representatives, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

At 11:50 a.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 974) to establish a program to afford high school graduates from the District of Columbia the benefits of in-State tuition at State colleges and universities outside the District of Columbia, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 348. An act to authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs.

H.R. 862. An act to authorize the Secretary of the Interior to implement the provisions of the Agreement conveying title to a Distribution System from the United States to the Clear Creek Community Services District.

H.R. 992. An act to convey the Sly Park Dam and Reservoir to the El Dorado Irrigation District, and for other purposes.

H.R. 1235. An act to authorize the Secretary of the Interior to enter into contracts with the Solano County Water Agency, California, to use Solano Project facilities for impounding, storage, and carriage of non-project water for domestic, municipal, industrial, and other beneficial purposes.

H.R. 2632. An act to designate certain Federal lands in the Talladega National Forest in the State of Alabama as the Dugger Mountain Wilderness.

H.R. 2737. An act to authorize the Secretary of the Interior to convey to the State of Illinois certain Federal land associated with the Lewis and Clark National Historic Trail to be used as an historic and interpretive site along the trail.

H.R. 2889. An act to amend the Central Utah Project Completion Act to provide for acquisition of water and water rights for Central Utah Project purposes, completion of Central Utah project facilities, and implementation of water conservation measures.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 189. Concurrent resolution expressing the sense of the Congress regarding the wasteful and unsportsmanlike practice known as shark finning.

ENROLLED BILL SIGNED

At 5:34 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3064. An act making appropriations for the District of Columbia, and for the Departments of Labor, Health, and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2000, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1883. An act to provide the application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5980. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendment, Revises Outdated Terminology, Removes Outdated Provisions, and Makes Other Minor Changes for Clarity and Consistency'', received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5981. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation dated October 27, 1999; to the Committee on the Budget.

EC–5982. A communication from the Principal Deputy Under Secretary of Defense, Acquisition and Technology, transmitting, pursuant to law, a report entitled ''Establishing an Entitlement to Reimburse Rental Car Costs to Military Members''; to the Committee on Armed Services.

EC–5983. A communication from the Deputy Assistant Administrator for Fisheries, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Revisions to Recordkeeping and Reporting Requirements'', received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–5984. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5985. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–5986. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–5987. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Turkey; to the Committee on Foreign Relations.

EC–5988. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC–5989. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–5990. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–5991. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $14,000,000 or more to Finland; to the Committee on Foreign Relations.

EC–5992. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more to the United Kingdom; to the Committee on Foreign Relations.

EC–5993. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with the Czech Republic and Canada; to the Committee on Foreign Relations.

EC–5994. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing

License Agreement with the United Kingdom; to the Committee on Foreign Relations.

EC–5995. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Mexico; to the Committee on Foreign Relations.

EC–5996. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Belgium; to the Committee on Foreign Relations.

EC–5997. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the annual report for fiscal year 1998; to the Committee on Foreign Relations.

EC–5998. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to telemedicine; to the Committee on Finance.

EC–5999. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''RIC Waivers and Reimbursement'' (Rev. Proc. 99–40, 1999–46 I.R.B.), received October 27, 1999; to the Committee on Finance.

EC–6000. A communication from the Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Changes to Permit Payment of Patent and Trademark Office Fees by Credit Card'' (RIN0651–AB07), received October 29, 1999; to the Committee on the Judiciary.

EC–6001. A communication from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Regulation CC, availability of Funds and Collection of Checks'' (Docket No. R–1034), received October 29, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6002. A communication from the Deputy Legal Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Community Development Financial Institutions Program'' (RIN1505–AA71), received October 27, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6003. A communication from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Sanitation Requirements for Official Meat and Poultry Establishments'' (RIN0583–AC39), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6004. A communication from the Congressional Review Coordinator, Regulatory Analysis and Development, Policy and Program Development, Animal and Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Aeration of Imported Logs, Lumber, and Other Unmanufactured Wood Articles That Have Been Fumigated'' (Docket #99–057–1), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6005. A communication from the Under Secretary, Food, Nutrition and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Food and Nutrition Services and Administration Funding Formulas'' (RIN0584–AC77), received October 27, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6006. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Buprofezin; Extension of Tolerance for Emergency Exemptions'' (FRL #6387–4), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6007. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Propargite; Partial Stay of Order Revoking Certain Tolerances'' (FRL #6390–4), received October 29, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6008. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, a report entitled ''Revision to Emission Budgets Set Forth in EPA's Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone for the States of Connecticut, Massachusetts and Rhode Island''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6009. A communication from the Associate Chief, Policy Division, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems'' (Docket No. 94–102; FCC 99–245), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6010. A communication from the Trial Attorney, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Reinvention of Steam Locomotive Inspection Regulations'' (RIN2130–AB07), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6011. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Debbies Creek, NJ (CGD05–99–111)'' (RIN2115–AE47) (1999–0053), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6012. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Vessel Identification System (CGD 89–050)'' (RIN2115–AD35) (1999–0002), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6013. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Duluth Ship Canal (Duluth-Superior Harbor), MN (CGD09–99–077)'' (RIN2115–AE47) (1999–0052), received October 29, 1999; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 439. A bill to amend the National Forest and Public Lands of Nevada Enhancement Act of 1988 to adjust the boundary of the Toiyabe National Forest, Nevada (Rept. No. 106–205).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments.

S. 977. A bill to provide for the conveyance by the Bureau of Land Management to Douglass County, Oregon, of a country park, and certain adjacent land (Rept. No. 106–206).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1296. A bill to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System (Rept. No. 106–207).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments.

S. 1349. A bill to direct the Secretary of the Interior to conduct special resource studies to determine the national significance of specific sites as well as the suitability and feasibility of their inclusion as units of the National Park System (Rept. No. 106–208).

S. 1569. A bill to amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes (Rept. No. 106–209).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment.

S. 1599. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with Black Hills National Forest (Rept. No. 106–210).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 20. A bill to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York (Rept. No. 106–211).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment.

H.R. 592. A bill to redesignate Great Kills Park in the Gateway National Recreation Area as ''World War II Veterans Park at Great Kills'' (Rept. No. 106–212).

H.R. 1619. A bill to amend Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor (Rept. No. 106–213).

By Mr. BOND, from the Committee on Small Business, with an amendment in the nature of a substitute:

S. 791. A bill to amend the Small Business Act with respect to the women's business center program (Rept. No. 106–214).

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

H.J. Res. 65. A joint resolution commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment:

S. 1515. A bill to amend the Radiation Exposure Compensation Act, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of a committee were submitted:

By Mr. HATCH, Committee on the Judiciary:

Q. Todd Dickinson, of Pennsylvania, to be Commissioner of Patents and Trademarks.

Anne H. Chasser, of Ohio, to be an Assistant Commissioner of Patents and Trademarks.

Kathryn M. Turman, of Virginia, to be Director of the Office for Victims of Crime.

Melvin W. Kahle, of West Virginia, to be United States Attorney for the Northern District of West Virginia for a term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. BOXER:

S. 1840. A bill to provide for the transfer of public lands to certain California Indian Tribes; to the Committee on Indian Affairs.

By Mr. COCHRAN:

S. 1841. A bill to provide private chapter 7 panel trustees and chapter 13 standing trustees with remedies for resolving disputes with the United States Trustee Program; to the Committee on the Judiciary.

By Mr. WELLSTONE:

S. 1842. A bill to combat trafficking of persons in the United States and countries around the world through prevention, prosecution and enforcement against traffickers, and protection and assistance to victims of trafficking; to the Committee on Foreign Relations.

By Mr. SESSIONS:

S. 1843. A bill to designate certain Federal land in the Talladega National Forest, Alabama, as the ''Dugger Mountain Wilderness''; considered and passed.

By Mr. ROTH (for himself, Mr. MOYNIHAN, Mr. VOINOVICH, Mrs. FEINSTEIN, Mr. ROBERTS, Mrs. BOXER, Mr. ENZI, Mr. THOMAS, Mr. GRAMM, Mr. KERREY, Mrs. HUTCHISON, and Mr. BAYH):

S. 1844. A bill to amend part D of title IV of the Social Security Act to provide for an alternative penalty procedure with respect to compliance with requirements for a State disbursement unit; considered and passed.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1845. A bill to amend title 18, United States Code, to prohibit the sale or transfer of a firearm or ammunition to an intoxicated person; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 214. A resolution authorizing the taking of photographs in the Chamber of the United States Senate; considered and agreed to.

By Mr. LOTT:

S. Res. 215. A resolution making changes to Senate committees for the 106th Congress; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. COCHRAN, Mr. GRASSLEY, Mrs. MURRAY, Mr. BINGAMAN, Mr. DOMENICI, Mr. SMITH of Oregon, Mr. AKAKA, Mr. CONRAD, Mrs. BOXER, Mr. HATCH, Mr. JOHNSON, Mr. KOHL, Mr. INHOFE, Mr. REID, Mr. ENZI, Mr. MCCAIN, Mr. MURKOWSKI, Mr. THOMAS, Mr. BURNS, Mr. GRAMS, Mr. DASCHLE, Mr. BENNETT, Mr. ALLARD, Mr. STEVENS, Mr. CRAPO, Mr. WYDEN, Mr. FRIST, Mr. JEFFORDS, and Mr. KENNEDY):

S. Res. 216. A resolution designating the Month of November 1999 as ''National American Indian Heritage Month''; to the Committee on the Judiciary.

By Mr. HUTCHINSON:

S. Res. 217. A resolution relating to the freedom of belief, expression, and association in the People's Republic of China; to the Committee on Foreign Relations.

By Mr. TORRICELLI:

S. Con. Res. 65. A concurrent resolution expressing the sense of Congress regarding the preservation of full and open competition for contracts for the transportation of United States military cargo between the United States and the Republic of Iceland; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Con. Res. 66. A concurrent resolution to authorize the printing of ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861''; considered and agreed to.

S. Con. Res. 67. A concurrent resolution to authorize the printing of ''The United States Capitol'' A Chronicle, Design, and Politics''; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. BOXER:

S. 1840. A bill to provide for the transfer of public lands to certain California Indian tribes; to the Committee on Indian affairs.

CALIFORNIA INDIAN LAND TRANSFER ACT

Mrs. BOXER. Mr. President, today I am introducing the California Indian Land Transfer Act, which would transfer to eight California tribes approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development.

The eight tribes are the Pit River Tribe (Modoc County), the Fort Bidwell Indian Community (Modoc County), the Pala Band of Mission Indians (San Diego County), the Cuyapaipe Band of Mission Indians (San Diego County), the Manzanita Band of Mission Indians (San Diego County), the Barona Band of Mission Indians (San Diego County), and the Morongo Band of Mission Indians (Riverside County).

All of the parcels of BLM land are contiguous to existing reservation trust lands and have been formally classified as suitable for disposal through the BLM land use planning process.

Many California Indian tribes now lack reservations of sufficient size to provide housing or an economic base adequate to meet the needs of their members and their families. Other California Indian reservations have such poor quality lands that the tribal options for economic development are extremely limited. This situation derives from the complex history of federal-tribal relations in California. Instead of the approximately 8.5 million acres of land promised in the treaties, the California tribes now reside on a little more than 400,000 acres. Approximately one-third of California's 107 federally recognized tribes have a land base of less than 50 acres; approximately two-thirds have a land base of less than 500 acres, leaving little opportunity for these tribes to develop viable communities and economies where their members can live and work.

The counties in which these lands are located support the tribes' efforts to acquire these lands and have participated in the federal land planning process through which these parcels were identified and made available for transfer to the tribes. This legislation also has the support of the Administration. A similar bill, H.R. 2742, passed the House of Representatives last Congress and was placed on the Senate's consent calendar but was never brought to a vote before adjournment. An earlier version of the bill suffered the same fate in the 104th Congress and I am informed that the negotiations between the Department of the Interior and the Tribes for transfer of these lands date back to 1994.

This legislation is the result of a multiyear cooperative effort by the tribes, the Secretary, the BLM and the Bureau of Indian Affairs, in consultation with local country governments. This effort allows me to present a model legislative blueprint for interagency transfer of federal lands as a means of enhancing the extremely limited land and resources base of California's small tribes. The bill also stands as an excellent example of federal, tribal, and local governmental consultation and collaboration within the planning process for disposition of federal lands that have been formally classified as suitable for disposal. It is time for Congress to do its part and conclude this successful intergovernmental collaboration.

I ask unanimous consent that the text of the bill and letters of support from the eight tribes and four counties affected by this legislation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1840

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 ''California Indian Land Transfer Act''.

SEC. 2. LANDS HELD IN TRUST FOR VARIOUS TRIBES OF CALIFORNIA INDIANS.

(a) IN GENERAL.—Subject to valid existing rights, all right, title, and interest of the United States in and to the lands, including improvements and appurtenances, described in a paragraph of subsection (b) in connection with the respective tribe, band, or group of Indians named in such paragraph are hereby declared to be held in trust by the United

States for the benefit of such tribe, band, or group. Real property taken into trust pursuant to this subsection shall not be considered to have been taken into trust for gaming (as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

(b) LANDS DESCRIBED.—The lands described in this subsection, comprising approximately 3525.8 acres, and the respective tribe, band, or group, are as follows:

(1) PIT RIVER TRIBE.—Lands to be held in trust for the Pit River Tribe are comprised of approximately 561.69 acres described as follows:

Mount Diablo Base and Meridian

Township 42 North, Range 13 East

Section 3:
S½ NW¼, NW¼ NW¼, 120 acres.

Township 43 North, Range 13 East

Section 1:
N½ NE¼, 80 acres,
Section 22:
SE¼ SE¼, 40 acres,
Section 25:
SE¼ NW¼, 40 acres,
Section 26:
SW¼ SE¼, 40 acres,
Section 27:
SE¼ NW¼, 40 acres,
Section 28:
NE¼ SW¼, 40 acres,
Section 32:
SE¼ SE¼, 40 acres,
Section 34:
SE¼ NW¼, 40 acres,

Township 44 North, Range 14 East,

Section 31:
S½ SW¼, 80 acres.

(2) FORT INDEPENDENCE COMMUNITY OF PAIUTE INDIANS.—Lands to be held in trust for the Fort Independence Community of Paiute Indians are comprised of approximately 200.06 acres described as follows:

Mount Diablo Base and Meridian

Township 13 South, Range 34 East

Section 1:
W½ of Lot 5 in the NE¼, Lot 3, E½ of Lot 4, and E½ of Lot 5 in the NW¼.

(3) BARONA GROUP OF CAPITAN GRANDE BAND OF MISSION INDIANS.—Lands to be held in trust for the Barona Group of Capitan Grande Band of Mission Indians are comprised of approximately 5.03 acres described as follows:

San Bernardino Base and Meridian

Township 14 South, Range 2 East

Section 7, Lot 15.

(4) CUYAPAIPE BAND OF MISSION INDIANS.—Lands to be held in trust for the Cuyapaipe Band of Mission Indians are comprised of approximately 1,360 acres described as follows:

San Bernardino Base and Meridian

Township 15 South, Range 6 East

Section 21:
All of this section.
Section 31:
NE¼, N½SE¼, SE¼SE¼.
Section 32:
W½SW¼, NE¼SW¼, NW¼SE¼.
Section 33:
SE¼, SW¼SW¼, E½SW¼.

(5) MANZANITA BAND OF MISSION INDIANS.—Lands to be held in trust for the Manzanita Band of Mission Indians are comprised of approximately 1,000.78 acres described as follows:

San Bernardino Base and Meridian

Township 16 South, Range 6 East

Section 21:
Lots 1, 2, 3, and 4, S½.
Section 25:
Lots 2 and 5.
Section 28:
Lots, 1, 2, 3, and 4, N½SE¼.

(6) MORONGO BAND OF MISSION INDIANS.—Lands to be held in trust for the Morongo Band of Mission Indians are comprised of approximately 40 acres described as follows:

San Bernardino Base and Meridian

Township 3 South, Range 2 East

Section 20:
NW¼ of NE¼.

(7) PALA BAND OF MISSION INDIANS.—Lands to be held in trust for the Pala Band of Mission Indians are comprised of approximately 59.20 acres described as follows:

San Bernardino Base and Meridian

Township 9 South, Range 2 West

Section 13, Lot 1, and Section 14, Lots 1, 2, 3.

(8) FORT BIDWELL COMMUNITY OF PAIUTE INDIANS.—Lands to be held in trust for the Fort Bidwell Community of Paiute Indians are comprised of approximately 299.04 acres described as follows:

Mount Diablo Base and Meridian

Township 46 North, Range 16 East

Section 8:
SW¼SW¼.
Section 19:
Lots 5, 6, 7.
S½NE¼, SE¼NW¼, NE¼SE¼.
Section 20:
Lot 1.

SEC. 3. MISCELLANEOUS PROVISIONS.

(a) PROCEEDS FROM RENTS AND ROYALTIES TRANSFERRED TO INDIANS.—Amounts which accrue to the United States after the date of the enactment of this Act from sales, bonuses, royalties, and rentals relating to any land described in section 2 shall be available for use or obligation, in such manner and for such purposes as the Secretary may approve, by the tribe, band, or group of Indians for whose benefit such land is taken into trust.

(b) NOTICE OF CANCELLATION OF GRAZING PREFERENCES.—Grazing preferences on lands described in section 2 shall terminate 2 years after the date of the enactment of this Act.

(c) LAWS GOVERNING LANDS TO BE HELD IN TRUST.—

(1) IN GENERAL.—Any lands which are to be held in trust for the benefit of any tribe, band, or group of Indians pursuant to this Act shall be added to the existing reservation of the tribe, band, or group, and the official boundaries of the reservation shall be modified accordingly.

(2) APPLICABILITY OF LAWS OF THE UNITED STATES.—The lands referred to in paragraph (1) shall be subject to the laws of the United States relating to Indian land in the same manner and to the same extent as other lands held in trust for such tribe, band, or group on the day before the date of enactment of this Act.

DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CALIFORNIA STATE OFFICE,
Sacramento, CA, October 8, 1999.

Senator BARBARA BOXER,
112 Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BOXER: Thank you for your inquiry regarding your planned introduction of the California Indian Land Transfer Act. As you know, the Administration has twice forwarded proposed legislation to Congress (in the 104th and the 105th) to effect these land transfers which must be done legislatively. The Bureau of Land Management (BLM) has worked cooperatively for many years with the eight Tribes and the local governments involved to see these transfers are completed.

The tribes, acreages, and counties involved are as follows:

Barona, 5 acres, San Diego County:
Cuyapaipe, 1,360 acres, San Diego County;
Fort Bidwell, 300 acres, Modoc County;
Fort Independence, 200 acres, Inyo County;
Morongo, 40 acres, San Diego County;
Manzanita, 1,000 acres, San Diego County;
Pala, 60 acres, San Diego County; and
XL Ranch/Pit River, 562 acres, Modoc County.

In each of these cases the lands are surrounded by or directly adjacent to the Tribes' existing reservations. The tracts identified represent scattered, unmanageable tracts of public lands that have been identified in our land use plans for disposal. The Tribes have indicated these lands will add to economic viability of their reservations and we are pleased to assist them in this important endeavor.

We look forward to introduction of your legislation in the 106th Congress on this important public issue. Please let us know if we can assist you in any way.

Sincerely,

ELAINE MARQUIS-BRONG
(For Al Wright, Acting State Director).

RESOLUTION NO. 99–34

Be it hereby *Resolved*, That the Board of Supervisors affirms its earlier support (in Resolutions 95–29 and 96–39) of the introduction of the California Indian Land Transfer Act (copy attached), which would transfer approximately 860 acres of public lands under the jurisdiction of the Bureau of Land Management to the United States of America in trust for the Pit River Tribe (560 acres) and the Fort Bidwell Community of Paiute Indians (300 acres) to be added to the tribal trust lands of their respective reservations.

BOARD OF SUPERVISORS,
COUNTY OF RIVERSIDE,
Riverside, CA, August 31, 1999.

Senator BARBARA BOXER,
Suite 112, Senate Hart Office Bldg.,
Washington, DC.

DEAR SENATOR BOXER: We are writing to convey our support for the California Indian land Transfer Act (CILTA) and to urge your support of this legislation. CILTA would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development.

In our district this would mean the transfer of approximately 40 acres, presently under the jurisdiction of the Bureau of Land management to the United States of America in trust for the Morongo Land of Mission Indians to be added to the tribal trust lands of the Morongo Indian Reservation.

The current version of the CILTA passed the House of Representative last year as H.R. 2742 and was placed on the Senate's consent calendar, but was never brought to a vote before adjournment. Last session was the second time that the bill has passed the House without timely action in the Senate.

California county governments have been supportive of the tribes' past efforts to obtain additional lands for such uses as housing, grazing, resource protection, and non-gaming economic development. Moreover, county governments have had varying degrees of involvement with the federal and planning process through which these parcels were identified and made available for transfer to the tribes.

CILTA has the unqualified support of the Administration, which has invested considered time and effort in urging its enactment. The Secretary of the Interior personally transmitted the bill to the Congress last year with his strong recommendation that it be enacted at the earliest possible date. The Secretary remains similarly committed to

supporting the bill's passage during the current session of Congress.

CILTA is the result of a multi-year, cooperative effort by the tribes, the Secretary, the BLM and the Bureau of Indian Affairs, in consultation with local county governments. It presents a model legislative blueprint for inter-agency transfer of federal lands as a means of enhancing the extremely limited land and resource base of California's small tribes. It also illustrates how federal, tribal and local governmental consultation can successfully occur within the framework of an existing federal planning process.

We hope this letter conveys our support for this important legislation and urge you to support its passage.

Sincerely,

JIM VENABLE,
Supervisor, Third District.

RESOLUTION NO. 99–170

Now, be it *resolved* by the Board of Supervisors of the County of San Diego, supports the introduction of the California Indian Land Transfer Act, which would transfer a total of approximately 2,525 acres of public lands under the jurisdiction of the Bureau of Land Management to the United States of America in trust for the Barona (5.03 acres), Cuyapaipe (1,360 acres), Manzanita (1,000.78 acres), and Pala (59.20) acres) Bands of Mission Indians to be added to the tribal trust lands of their respective reservations.

RESOLUTION NO. 99–41

Whereas, on July 6, 1999, the Fort Independence Indian Community asked the County to reiterate its support for the California Indian Land Transfer Act, and explained the Tribe's need for the additional land, the history of the land proposed for transfer, and the Tribe's plans for development and use of the lands; and

Whereas, this Board desires to both promote economic development and enhance the quality of life within the County and believes that the Tribe's proposed development could play a vital role in these goals by improving the economic, social and cultural health of both the Tribe and the County; and

Whereas, this Board desires to provide for the County adequate housing, jobs, economic development, and recreational and cultural amenities through a reasonable land development plan that ensures the provision of necessary public services and facilities and eliminates or mitigates any potential negative impacts of such development; and

Whereas, the Tribe has notified the Board that it shares these same concerns about their shared community; and

Whereas, the Board recognizes the Tribe's sovereignty; and

Whereas, the Tribe has expressed its desire to the Board to work with the County in a government-to-government relationship to ensure that Tribal development of the parcel proposed for transfer will provide the community with necessary housing and economic development without compromising the environmental, health, safety or welfare concerns of the region; now therefore, be it

Resolved by the Board of Supervisors of the County of Inyo, State of California, that it supports the California Indian Land Transfer Act, and the included transfer to the Fort Independence Indian Community of the 200-acre parcel of Bureau of Land Management land which is contiguous to the existing reservation, provided that the Fort Independence Indian Community agrees with a Memorandum of Understanding, which provides for a mutually agreeable method of dispute resolution, to bring its proposed development plan back to the County in order to discuss, on a government-to-government basis, how applicable federal and tribal laws will address the following issues/concerns, and, in those situations where the County is of the opinion that federal and tribal laws do not adequately address its concerns, to discuss what standards and/or approaches the Tribe might incorporate into its development plan or laws, looking to state and local laws for guidance, so to address, to a reasonable extent, the County's concerns:

(1) Building design and construction;

(2) Land use, planning and zoning;

(3) Health;

(4) Environmental health;

(5) Animal control;

(6) Streets, highways and roads;

(7) Environmental quality;

(8) Police protection;

(9) Fire protection;

(10) Water supply;

(11) Sewage disposal;

(12) School facilities;

(13) Funding for county-provided services; and

(14) Gaming.

Be it further *Resolved*, That the Clerk of the Board is directed to distribute this Resolution to the Fort Independence Indian Tribal Council, the Secretary of the Interior, United States Senators Boxer and Feinstein, the Governor of the State of California, representatives of Inyo County in the United States House of Representatives and the California Legislature; the Bureau of Indian Affairs and the Bureau of Land Management.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 11, 1999.

SAN DIEGO COUNTY BOARD OF SUPERVISORS,
1600 Pacific Hwy, Room 335,
San Diego, CA.

DEAR SUPERVISORS: I am writing to you regarding the transferal of surplus Bureau of Land Management land parcels to the Barona, Cuyapaipe and Manzanita Bands of Mission Indians in San Diego County. It is my understanding that the Board of Supervisors will be considering a resolution to support the introduction of the California Indian Land Transfer Act (CILTA) in Congress to authorize this transferal and I wanted to make you aware of my continued support for this effort.

I firmly believe that this transferal will promote tribal sovereignty while, at the same time, provide numerous benefits to our San Diego county communities. As you may know, I voted in favor of the CILTA when it passed the House of Representatives on two separate occasions. Despite this support, however, this legislation has failed to receive adequate consideration in the Senate.

It is for this reason that I was pleased to learn that Senator Barbara Boxer has expressed interest in reintroducing the CILTA in the 106th Congress. Taking into consideration the numerous endorsements this effort has received in the past, coupled with the fact that these land parcels will be used for ''non-gaming'' economic and community development, it is my full intention to once again support this legislation when it is considered by the House.

Thank you for your time and allowing me to express my thoughts on this important issue. If you have any questions regarding this matter, please do not hesitate to contact me directly, or Michael Harrison in my office at (202) 255–5672.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Member of Congress.

FORT INDEPENDENCE
INDIAN RESERVATION,
Independence, CA, October 13, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Fort Independence Community of Paiute Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian Tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing resource protection and nongaming economic development. Under the bill's provisions, our tribe will acquire approximately 200 acres of BLM land. These lands would be added to the tribal trust lands of the Fort Independence Indian Reservation. We expect to use the land for non-gaming economic development.

We sincerely appreciate your support for this important legislation.

Sincerely,

WENDY L. STINE,
Chairperson.

BARONA BAND OF MISSION INDIANS,
Lakeside, CA, March 9, 1999.

Re Proposed Southern California Indian Land Transfer Act.

DEAR SENATOR BOXER: By now you should have received the letter of today's date from Stephen V. Quesenberry of California Indian Legal Services, voicing the support of his six tribal clients of the above proposed bill. The Barona Band of Mission Indians is the seventh Californian tribe that would benefit from this bill. We are writing to you separately to add our support for the bill, which was passed in the House in the last session, only to die from inaction in the Senate. Because Congressman Young does not want to introduce it in the House, where we expect little or no opposition at all.

As for the fear that the Barona Band might use the land to be acquired under this bill for gaming purposes, we have two simple responses. First, the 5.03 acres that we would obtain is far too small and far too remote to be used for this purpose. Instead, we would use it for watershed, cattle grazing, and wildlife habitat. This small parcel is over a mile from the nearest paved road, across fairly rough country. Second, the Barona Band already has a very successful gaming enterprise on its primary reservation adjacent to a country road, and therefore does not need any further gaming locations. In addition, the bill itself specifies that this land is not being transferred for gaming purposes in any event.

Instead of lengthening this letter by repeating the statements presented by Mr. Quesenberry on behalf of his tribal clients, we will just adopt them as our own, and urge you to introduce and vigorously support this non-controversial bill on behalf of the Barona Band and other California tribes which would benefit from it.

Sincerely yours,

CLIFFORD M. LACHAPPA,
Chairman.

BARONA BAND OF MISSION INDIANS,
Lakeside, CA, June 29, 1999.

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

DEAR SENATOR BOXER: During the 105th Congress, Congressman Don Young introduced the California Indian Land Transfer Act, H.R. 2742, a bill that would transfer approximately 3,500 acres of Bureau of Land Management (BLM) land to a number of Indian tribes located in California, including

5.03 acres for the Barona Band of Mission Indians. Attached, please find a resolution recently adopted by the Barona Band of Mission Indians Tribal Council urging you to sponsor similar legislation in the United States Senate this year.

As you know, since the early 1930's, the Barona Band has been located on approximately 5,500 acres in rural eastern San Diego County and is home to approximately 300 people. We came to this land after the City of San Diego bought our reservation as a reservoir site and forced us to move. Therefore, the passage of this bill is very important to our history and our future.

As drafted, H.R. 2742 would place a number of restrictions on the use of the new lands. Perhaps most noteworthy is the provision baring the use of any such lands for gaming purposes. Although as a sovereign government we object to any restriction being placed on the use of our lands, we understand that the political nature of this bill demands such a restriction.

Finally, we are encouraged by the action taken by the San Diego County Board when they too adopted a resolution in support of the proposed legislation. We are hopeful that this demonstration of government unity will give you the encouragement necessary to carry this bill forward.

Sincerely,

CLIFFORD M. LACHAPPA,
Chairman.

RESOLUTION NO. 06–2299

Whereas: The Barona Band of Mission Indians is among the 104 Federally recognized Indian Tribes located in the State of California; and,

Whereas: Indian Tribes located in California retain rights to fewer than 500,000 acres of land, seventy-five percent of which is held in Trust by the United States Government on behalf of 14 tribes; and,

Whereas: The Federal Bureau of Land Management (BLM) is considering large scale transfers of trust lands to local governments in California, and to the State of California; and,

Whereas: The Federal Bureau of Land Management (BLM) is considering large scale transfers of trust lands to local governments in California, and to the State of California; and,

Whereas: California Indian Legal Services has been working diligently over the past three years to secure passage of Federal Legislation to transfer approximately 3,600 acres of BLM trust land to 10 specific tribes; and,

Whereas: The Elected leaders of California have a unique responsibility to help California tribes address the issue of securing additional lands so that tribes may develop stronger economies; and,

Whereas: On June 15th, the San Diego county Board of Supervisors unanimously voted to support this transfer of land; and, be it therefore

Resolved: That the Barona Band of Mission Indians urges Senator Barbara Boxer and Senator Dianne Feinstein to sponsor legislation to transfer such lands as identified by the California Indian Legal Services from the BLM to benefit California tribes and work for the passage of such legislation.

BARONA BAND OF MISSION INDIANS,
Lakeside, CA, October 14, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Baraona Group of the Capitan Grande Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 5.03 acres of BLM land. These lands would be added to the tribal trust lands of the Barona Indian Reservation. We expect to use the land for wild land addition to the reservation.

We sincerely appreciate your support for this important legislation.

Sincerely,

CLIFFORD M. LACHAPPA,
Chairman.

MANZANITA BAND OF MISSION INDIANS,
Boulevard, CA, October 1, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Manzanita Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian Tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 1,000 acres of BLM land. These lands would be added to the tribal trust lands of the Manzanita Indian Reservation. We expect to use the land for non-gaming economic development.

We sincerely appreciate your support for this important legislation.

Sincerely,

LEROY J. ELLIOTT,
Chairman.

PALA BAND OF MISSION INDIANS,
Pala, CA, October 1, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Pala Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 60 acres of BLM land. These lands would be added to the tribal trust lands of the Pala Indian Reservation. We expect to use the land for wildland addition to the reservation.

We sincerely appreciate your support for this important legislation.

Sincerely,

ROBERT H. SMITH,
Tribal Chairman.

EWIIAAPAAYP TRIBAL OFFICE,
Alpine, CA, October 4, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Cuyapaipe Band of Mission Indians, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer to eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 1,360 acres of BLM land. These lands would be added to the tribal trust lands of the Cuyapaipe Indian Reservation. We expect to use the land for housing and non-gaming economic development.

We sincerely appreciate your support for this important legislation.

Sincerely,

TONY PINTO,
Tribal Chairman.

PIT RIVER TRIBE,
Burney, CA, October 6, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Pit River Tribe, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 560 acres of BLM land. These lands would be added to the tribal trust lands of the XL Ranch Indian Reservation. We expect to use the land for housing, grazing and other agricultural development.

We sincerely appreciate your support for this important legislation.

Sincerely,

LAWRENCE CANTRELL,
Chairman.

PIT RIVER TRIBE,
Burney, CA, October 6, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Pit River Tribe, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-gaming economic development. Under the bill's provisions, our tribe will acquire approximately 560 acres of BLM land. These lands would be added to the tribal trust lands of the XL Ranch Indian Reservation. We expect to use the land for housing, grazing and other agricultural development.

We sincerely appreciate your support for this important legislation.

Sincerely,

ARNOLD WILKES,
Vice-Chairman.

FORT BIDWELL INDIAN
COMMUNITY COUNCIL,
Fort Bidwell, CA, October 6, 1999.

Re California Indian Land Transfer Act.

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

DEAR SENATOR BOXER: On behalf of the Fort Bidwell Indian Community, I want to express our thanks for your agreement to introduce the California Indian Land Transfer Act, a bill that would transfer eight California Indian tribes a total of approximately 3,500 acres of Bureau of Land Management (BLM) land to be used for housing construction, grazing, resource protection, and non-

gaming economic development. Under the bill's provisions, our tribe will acquire approximately 300 acres of BLM land. These lands will be added to the tribal trust lands of the Fort Bidwell Indian Reservation. We expect to use the land for housing and grazing.

We sincerely appreciate your support for this important legislation.

Sincerely,

DENISE POLLARD,
Acting Chairpeson.

MORONGO BAND OF MISSION INDIANS,
Banning, CA, October 25, 1999.

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

DEAR SENATOR BOXER: The purpose of this letter is to request that you sponsor and introduce legislation to transfer certain parcels of land from the Bureau of Land Management to various California Indian Tribes. It is our understanding that your staff has been working on this matter with Tribes and their representatives.

As you are aware, this proposed legislation is similar to legislation that was previously enacted transferring other Bureau of Land Management land to California Indian Tribes.

We appreciate your efforts in this area, as well as your support of the Tribes in California on the range of legislative issues and challenges that native Americans face.

Sincerely yours,

MARY ANN MARTIN ANDREAS,
Chairperson.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 1845. A bill to amend title 18, United States Code, to prohibit the sale or transfer of a firearm or ammunition to an intoxicated person; to the Committee on the Judiciary.

GUN SALES TO INTOXICATED PERSONS

● Mrs. BOXER. Mr. President, last July, when the Senate considered the Commerce-Justice-State appropriations bill, I offered an amendment to prohibit the sale of guns to people who were intoxicated.

State and local laws prohibit intoxicated people from operating a car, a boat, a snowmobile, a plane, an all-terrain vehicle, or a bicycle. There is even one state law that prohibits an intoxicated person from getting a tattoo. In addition, federal law prohibits an intoxicated person from enlisting in the military. And, federal gun laws prohibit the sale of a gun to a drug user.

My amendment simply built on this record. All it said is that if you are intoxicated, you cannot buy a gun or ammunition. To me, it just makes common sense that someone who is drunk should not be able to buy a gun. And, the Senate agreed because my amendment was passed unanimously.

Unfortunately, Mr. President, the conference committee dropped this provision from the bill. I am extremely disappointed that such a common-sense proposal would be abandoned by the Senate leadership.

So, today, I am introducing—along with my colleague, Senator LAUTENBERG—this very reasonable proposal as a free-standing bill.

Mr. President, guns and alcohol do not mix. A 1997 study in the Journal of American Medical Association found that ''alcohol and illicit drug use appear to be associated with an increased risk of violent death.'' And as the two stories I want to share today illustrate, alcohol is also associated with an increased risk of serious injury.

The first story is about a woman by the name of Deborah Kitchen. She is a quadriplegic, and she got that way because her ex-boyfriend shot her.

On the day of the shooting, Deborah's boyfriend, Thomas Knapp, consumed—by his own estimate—a fifth of whiskey and a case of beer. He went to K-Mart in Florida to buy a .22-caliber rifle and a box of bullets. Mr. Knapp was so intoxicated that the clerk had to help him fill out the federal form required to purchase the gun. But he was still able to buy the rifle.

Mr. Knapp then took that rifle, shot his ex-girlfriend Deborah Kitchen, and left her a quadriplegic.

The second story is from Michigan. It involves an 18-year-old named Walter McKay, who had engaged in a day-long drinking spree and then went and bought ammunition for his shotgun. He was so intoxicated that he could not remember whether it was a man or woman who sold him the ammunition and could not identify what he purchased.

He took those shotgun shells, loaded his gun, and intended to shoot out the back window of an acquaintance's truck. He was intoxicated. The shot missed, ricocheted off the wheel of the truck, and hit Anthony Buczkowski. Mr. Buczkowski had to have a finger amputated and his left wrist surgically fused.

Mr. Knapp and Mr. McKay could buy a gun and ammunition because it is not—I repeat, not—against the law to sell a gun or ammunition to someone who is intoxicated.

Mr. President, as I mentioned earlier, states and localities have all sorts of laws prohibiting people who are intoxicated from doing certain things. But, I am unaware of a single state law that prohibits someone who is drunk from buying a gun or ammunition.

It would be nice if states would act. But, gun sales are largely regulated at the federal level and involve federal licenses and federal forms. This is a federal responsibility, and there should be a federal law that stops this outrage.

That is what my bill does. If you are intoxicated, you would not be able to buy a gun or ammunition. It is very reasonable, and it will save lives.●

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. THOMPSON, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 59, a bill to provide Government-wide accounting of regulatory costs and benefits, and for other purposes.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 386

At the request of Mr. GORTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 386, a bill to amend the Internal Revenue Code of 1986 to provide for tax-exempt bond financing of certain electric facilities.

S. 486

At the request of Mr. HATCH, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Washington (Mr. GORTON) were added as cosponsors of S. 486, a bill to provide for the punishment of methoamphetamine laboratory operators, provide additional resources to combat methoamphetamine production, trafficking, and abuse in the United States, and for other purposes.

S. 512

At the request of Mr. GORTON, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 512, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the Department of Health and Human Services with respect to research on autism.

S. 600

At the request of Mr. WELLSTONE, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 600, a bill to combat the crime of international trafficking and to protect the rights of victims.

S. 664

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 664, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 941

At the request of Mr. WYDEN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 941, a bill to amend the Public Health Service Act to provide for a public response to the public health crisis of pain, and for other purposes.

S. 964

At the request of Mr. DASCHLE, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 964, a bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes.

S. 1053

At the request of Mr. BOND, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1053, a bill to amend the Clean Air Act to incorporate certain provisions

of the transportation conformity regulations, as in effect on March 1, 1999.

S. 1109

At the request of Mr. MCCONNELL, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1109, a bill to conserve global bear populations by prohibiting the importation, exportation, and interstate trade of bear viscera and items, products, or substances containing, or labeled or advertised as containing, bear viscera, and for other purposes.

S. 1187

At the request of Mr. DORGAN, the names of the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. HELMS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Michigan (Mr. ABRAHAM), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Wyoming (Mr. ENZI), the Senator from New York (Mr. MOYNIHAN), the Senator from Minnesota (Mr. GRAMS), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1244

At the request of Mr. THOMPSON, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 1244, a bill to establish a 3-year pilot project for the General Accounting Office to report to Congress on economically significant rules of Federal agencies, and for other purposes.

S. 1317

At the request of Mr. AKAKA, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1317, a bill to reauthorize the Welfare-To-Work program to provide additional resources and flexibility to improve the administration of the program.

S. 1400

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1400, A bill to protect women's reproductive health and constitutional right to choice, and for other purposes.

S. 1528

At the request of Mr. LOTT, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 1528, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 1592

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1680

At the request of Mr. ASHCROFT, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1680, a bill to provide for the improvement of the processing of claims for veterans compensation and pensions, and for other purposes.

S. 1760

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1760, a bill to provide reliable officers, technology, education, community prosecutors, and training in our neighborhoods.

S. 1798

At the request of Mr. HATCH, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1798, a bill to amend title 35, United States Code, to provide enhanced protection for investors and innovators, protect patent terms, reduce patent litigation, and for other purposes.

S. 1823

At the request of Mr. DEWINE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1823, a bill to revise and extend the Safe and Drug-Free Schools and Communities Act of 1994.

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. SESSIONS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution expressing the sense of the Congress regarding a continued United States security presence in Panama and a review of the contract bidding process for the Balboa and Cristobal port facilities on each end of the Panama Canal.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. ABRAHAM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of Senate Concurrent Resolution 63, a concurrent resolution condemning the assassination of Armenian Prime Minister Vazgen Sargsian and other officials of the Armenian Government and expressing the sense of the Congress in mourning this tragic loss of the duly elected leadership of Armenia.

SENATE RESOLUTION 118

At the request of Mr. REID, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of Senate Resolution 118, a resolution designating December 12, 1999, as ''National Children's Memorial Day.''

SENATE RESOLUTION 196

At the request of Mr. WARNER, the names of the Senator from Mississippi (Mr. LOTT), the Senator from Missouri (Mr. BOND), the Senator from North Carolina (Mr. HELMS), the Senator from Nebraska (Mr. KERREY), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of Senate Resolution 196, a resolution commending the submarine force of the United States Navy on the 100th anniversary of the force.

SENATE RESOLUTION 204

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of Senate Resolution 204, a resolution designating the week beginning November 21, 1999, and the week beginning on November 19, 2000, as ''National Family Week'', and for other purposes.

AMENDMENT NO. 2319

At the request of Mr. ROBB his name was added as a cosponsor of amendment No. 2319 proposed to S. 1692, a bill to amend title 18, United States Code, to ban partial birth abortions.

AMENDMENT NO. 2408

At the request of Mr. FEINGOLD the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 2408 intended to be proposed to H.R. 434, a bill to authorize a new trade and investment policy for sub-Sahara Africa.

SENATE CONCURRENT RESOLUTION 65—EXPRESSING THE SENSE OF CONGRESS REGARDING THE PRESERVATION OF FULL AND OPEN COMPETITION FOR CONTRACTS FOR THE TRANSPORTATION OF UNITED STATES MILITARY CARGO BETWEEN THE UNITED STATES AND THE REPUBLIC OF ICELAND

Mr. TORRICELLI submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 65

Whereas the Treaty Between the United States of America and the Republic of Iceland to Facilitate Their Defense Relationship and Related Memorandum of Understanding in Implementation of the Treaty, signed September 24, 1986, provides for full and open competition among United States-flag carriers and Icelandic shipping companies for the transportation of United States military cargo between the United States and Iceland: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should ensure that full and open competition continues in the selection of companies to transport United States military cargo between the United States and Iceland in accordance with the Treaty Between the United States of America and the Republic of Iceland to Facilitate Their Defense Relationship and Related Memorandum of Understanding in Implementation of the Treaty, signed September 24, 1986; and

(2) to preserve that competition, neither the Secretary of State nor any other official of the United States should, without the advice and consent of the Senate, seek to amend, interpret, or alter the administration of the treaty or memorandum of understanding in any manner (through limitations on eligibility or otherwise) that—

(A) would preclude companies qualified to conduct business under the laws of the

conduct business under the laws of the United States or the Republic of Iceland from submitting offers for, being awarded, or performing a contract for the transportation of United States military cargo under the treaty or memorandum of understanding; or

(B) would otherwise defeat the purpose of enhancing competition among United States-flag carriers or among Icelandic shipping companies under the treaty or memorandum of understanding.

SENATE CONCURRENT RESOLUTION 66—TO AUTHORIZE THE PRINTING OF ''CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861''

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 66

Whereas November 17, 2000, will mark the 200th anniversary of the occupation of the United States Capitol by the Senate and House of Representatives;

Whereas the story of the design and construction of the United States Capitol deserves wider attention; and

Whereas since 1991, Congress has supported a recently completed project to translate the previously inaccessible and richly detailed shorthand journals of Captain Montgomery C. Meigs, the mid-nineteenth-century engineer responsible for construction of the Capitol dome and Senate and House of Representatives extensions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861'', prepared under the direction of the Secretary of the Senate, in consultation with the Clerk of the House of Representatives and the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) a number of copies that does not have a total production and printing cost of more than $31,500.

SENATE CONCONCURRENT RESOLUTION 67—TO AUTHORIZE THE PRINTING OF ''THE UNITED STATES CAPITOL'' A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS''

Mr. LOTT (for himself, and Mr. DASCHLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 67

Whereas the 200th anniversary of the establishment of the seat of government in the District of Columbia will be observed in the year 2000;

Whereas November 17, 2000, will mark the bicentennial of the occupation of the United States Capitol by the Senate and the House of Representatives; and

Whereas the story of the design and construction of the United States Capitol deserves wider attention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "THE UNITED STATES CAPITOL: A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''The United States Capitol: A Chronicle of Construction, Design, and Politics'', prepared by the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 6,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $143,000.

SENATE RESOLUTION 214—AUTHORIZING THE TAKING OF PHOTOGRAPHS IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 214

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting photographs to be taken between the first and second sessions of the 106th Congress in order to allow the Senate Commission on Art to carry out its responsibilities to publish a Senate document containing works of art, historical objects, and exhibits within the Senate Wing.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to carry out this resolution.

SENATE RESOLUTION 215—MAKING CHANGES TO SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 215

Resolved, That the following change shall be effective on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Environment and Public Works: Mr. Smith of New Hampshire, Chairman.

SENATE RESOLUTION 216—DESIGNATING THE MONTH OF NOVEMBER 1999 AS ''NATIONAL AMERICAN INDIAN HERITAGE MONTH''

Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. COCHRAN, Mr. GRASSLEY, Mrs. MURRAY, Mr. BINGAMAN, Mr. DOMENICI, Mr. SMITH of Oregon, Mr. AKAKA, Mr. CONRAD, Mrs. BOXER, Mr. HATCH, Mr. JOHNSON, Mr. KOHL, Mr. INHOFE, Mr. REID, Mr. ENZI, Mr. MCCAIN, Mr. MURKOWSKI, Mr. THOMAS, Mr. BURNS, Mr. GRAMS, Mr. DASCHLE, Mr. BENNETT, Mr. ALLARD, Mr. STEVENS, Mr. CRAPO, Mr. WYDEN, Mr. FRIST, Mr. JEFFORDS, and Mr. KENNEDY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 216

Whereas American Indians and Alaska Natives were the original inhabitants of the land that now constitutes the United States;

Whereas American Indian tribal governments developed the fundamental principles of freedom of speech and separation of powers that form the foundation of the United States Government;

Whereas American Indians and Alaska Natives have traditionally exhibited a respect for the finiteness of natural resources through a reverence for the earth;

Whereas American Indians and Alaska Natives have served with valor in all of America's wars beginning with the Revolutionary War through the conflict in the Persian Gulf, and often the percentage of American Indians who served exceeded significantly the percentage of American Indians in the population of the United States as a whole;

Whereas American Indians and Alaska Natives have made distinct and important contributions to the United States and the rest of the world in many fields, including agriculture, medicine, music, language, and art;

Whereas American Indians and Alaska Natives deserve to be recognized for their individual contributions to the United States as local and national leaders, artists, athletes, and scholars;

Whereas this recognition will encourage self-esteem, pride, and self-awareness in American Indians and Alaska Natives of all ages; and

Whereas November is a time when many Americans commemorate a special time in the history of the United States when American Indians and English settlers celebrated the bounty of their harvest and the promise of new kinships: Now, therefore, be it

Resolved, That the Senate designates November 1999 as ''National American Indian Heritage Month'' and requests that the President issue a proclamation calling on the Federal Government and State and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Mr. CAMPBELL. Mr. President, I am pleased to submit today, along with the Vice Chairman of the Indian Affairs Committee, Senator INOUYE and many of our colleagues, a Senate resolution that designates the month of November 1999, as 'National American Indian Heritage Month.'

I feel it is appropriate and deserving to honor American Indians and Alaska Natives, as the original inhabitants of the land that now constitutes the United States, with this November designation as Congress has done for almost a decade.

American Indians and Alaska Natives have left an indelible imprint on many aspects of our everyday life that most Americans often take for granted. The arts, education, science, medicine, industry, and government are areas that have been influenced by American Indian and Alaska Native people over the last 500 years. Many of the healing remedies that we use today were obtained from practices already in use by Indian people and are still utilized today in conjunction with western medicine.

Mr. President, many of the basic principles of democracy in our Constitution can be traced to practices and customs already in use by American Indian tribal governments including the doctrines of freedom of speech and separation of powers. Our Founding Fathers benefited greatly from the example of the Indian tribes in the early stages of our Nation.

The respect of Native people for the preservation of natural resources, reverence for elders, and adherence to tradition, mirrors our own values which we developed in part, through the contact with American Indians and Alaska Natives. These values and customs are deeply rooted, strongly embraced and thrive with generation after generation of Native people.

From the difficult days of Valley Forge through our peace keeping efforts around the world today, American Indian and Alaska Native people have proudly served and dedicated their lives in the military readiness and defense of our country in wartime and in peace. In fact, their participation rate in the Armed Forces far outstrips the rates of all other groups in this Nation. Many American Indian men and women gave their lives selflessly in the defense of this Nation even before they were granted American citizenship in 1924.

Many of the words in our language have been borrowed from Native languages, including many of the names of the rivers, cities, and States across our Nation. Indian arts and crafts have also made a distinct impression on our heritage.

It is my hope that by designating the month of November 1999, as ''National American Indian Heritage Month,'' we will continue to encourage self-esteem, pride, and self awareness amongst American Indians and Alaska Natives of all ages. Many schools, organizations, Federal, State, Tribal and local governments can also plan activities and programs to celebrate the achievements of American Indians and Alaska Natives.

November is a special time in the history of the United States; we celebrate the Thanksgiving holiday by remembering the American Indians and English settlers as they enjoyed the bounty of their harvest and the promise of new kinships. By recognizing the many Native contributions to the arts, governance, and culture of our Nation, we will honor their past and ensure a place in America for Native people for generations to come. I ask for the support of my colleagues on both sides of the aisle for this resolution, and urge the Senate to pass this important matter.

Mr. SMITH of Oregon. Mr. President, I want to pay tribute to and recognize the contributions Native Americans and Indian tribes have made in the United States and in particular in the State of Oregon. Native Americans have a unique and important relationship with the United States, and Indian tribes continue to persevere in upholding their sovereign governments, economies, culture and heritage. I am pleased to join Senators CAMPBELL and INOUYE in submitting this resolution to designate this month as American Indian Heritage Month, and I appreciate their efforts on behalf of all Native Americans.

There are nine federally recognized tribes in the State of Oregon. Each of these tribes has successfully collaborated with State and Federal agencies and continues to develop active partnerships with the surrounding communities.

Five of Oregon's tribes are located in Western Oregon: The Confederated Tribes of Grand Ronde, the Confederated Tribes of Siletz, the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw, Coquille Indian Tribe, and the Cow Creek Band of Umpquas. Each of the tribes has made its own extraordinary contribution in Oregon and the Pacific Northwest region. The five tribes of Western Oregon have been successful in recent years in restoring their Federal recognition as Indian tribes, and they continue to work to stabilize and revitalize their social, cultural, and economic ties with the State and local communities.

There are four tribes located east of Oregon's Cascade Mountains. The Confederated Tribes of the Umatilla Reservation, in Easter Oregon, have been successful in their conservation and restoration of salmon and water back into the Umatilla River. The Confederated Tribes of Warm Springs, in Central Oregon, with their Kah-Nee-Ta Resort, have been making significant contributions to Oregon's tourism industry. The Burns Paiute and Klamath Tribes have renewed a foothold in the local economy.

Mr. President, I commend the contributions Native American people have brought to my State and this nation. American Indian Heritage Month is an important recognition to the accomplishments and contributions of Native Americans in our country. I urge my colleagues to join us in support of this resolution and I look forward to its prompt consideration.

SENATE RESOLUTION 217—RELATING TO THE FREEDOM OF BELIEF, EXPRESSION, AND ASSOCIATION IN THE PEOPLE'S REPUBLIC OF CHINA

Mr. HUTCHINSON submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 217

Whereas the United Nations Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights affirm the freedoms of thought, conscience, religion, expression, and assembly as fundamental human rights belonging to all people;

Whereas the United Nations Universal Declaration of Human Rights is a common standard of achievement for all peoples and all nations, including the People's Republic of China, a member of the United Nations;

Whereas the People's Republic of China has signed the International Covenant on Civil and Political Rights but has yet to ratify the treaty and thereby make it legally binding;

Whereas the Constitution of the People's Republic of China provides for the freedom of religious belief and the freedom not to believe;

Whereas according to the Department of State and international human rights organizations, the Government of the People's Republic of China does not provide these freedoms but continues to restrict unregistered religious activities and persecutes persons on the basis of their religious practice through measures including harassment, prolonged detention, physical abuse, incarceration, and police closure of places of worship;

Whereas under the International Religious Freedom Act, the Secretary of State has designated the People's Republic of China as a country of special concern;

Whereas the Government of the People's Republic of China has issued a decree declaring a wide range of activities illegal and subject to prosecution, including distribution of Falun Gong materials, gatherings or silent sit-ins, marches or demonstrations, and other activities to promote Falun Gong and has begun the trials of several Falun Gong practitioners;

Whereas the National People's Congress of the People's Republic of China on October 30, 1999, adopted a new law banning and criminalizing groups labeled by the Government of the People's Republic of China as cults; and

Whereas the Government of the People's Republic of China has officially labeled the Falun Gong meditation group a cult and has formally charged at least four members of the Falun Gong under this new law: Now, therefore, be it

Resolved, That the Senate calls on the Government of the People's Republic of China to—

(1) release all prisoners of conscience and put an immediate end to the harassment, detention, physical abuse, and imprisonment of Chinese citizens exercising their legitimate rights to free belief, expression, and association; and

(2) demonstrate its willingness to abide by internationally accepted norms of freedom of belief, expression, and association by repealing or amending laws and decrees that restrict those freedoms and proceeding promptly to ratify and implement the International Covenant on Civil and Political Rights.

AMENDMENTS SUBMITTED

AFRICAN GROWTH AND OPPORTUNITY ACT

BINGAMAN AMENDMENT NO. 2431

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill (H.R. 434) to authorize a new trade and investment policy for sub-Sahara Africa; as follows:

At the appropriate place, insert the following new section:

SEC. ___. REPORT.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Comptroller General of the United States shall submit a report to Congress regarding the efficiency and effectiveness of Federal and State coordination of unemployment and retraining activities associated with the following programs and legislation:

(1) trade adjustment assistance (including NAFTA trade adjustment assistance) provided for under title II of the Trade Act of 1974;

(2) the Job Training Partnership Act;

(3) the Workforce Investment Act; and

(4) unemployment insurance.

(b) PERIOD COVERED.—The report shall cover the activities involved in the programs and legislation listed in subsection (a) from January 1, 1994 to December 31, 1999.

(c) DATA AND RECOMMENDATIONS.—The report shall at a minimum include specific data and recommendations regarding—

(1) the compatibility of program requirements related to the employment and retraining of dislocated workers in the United States, with particular emphasis on the trade adjustment assistance programs provided for under title II of the Trade Act of 1974;

(2) the compatibility of application procedures related to the employment and retraining of dislocated workers in the United States;

(3) the capacity of these programs to assist workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(4) the capacity of these programs to assist secondary workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(5) how the impact of foreign trade and the transfer of production to other countries would have changed the number of beneficiaries covered under the trade adjustment assistance program if the trade adjustment assistance program covered secondary workers in the United States; and

(6) the effectiveness of the programs described in subsection (a) in achieving reemployment of United States workers and maintaining wage levels of United States workers who have been dislocated as a result of foreign trade and the transfer of production to other countries.

TORRICELLI AMENDMENTS NOS. 2432–2446

(Ordered to lie on the table.)

Mr. TORRICELLI submitted 15 amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2432

At the end of the amendment, add the following new subsection:

(__) EXCEPTION.—This section shall not apply to Cuba until the President reports to Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections.

AMENDMENT NO. 2433

At the end of the amendment, add the following new section:

SEC. ____. (a) TREATMENT OF SALES IF CUBA IS ON THE LIST OF TERRORIST STATES.—At any time during which Cuba has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), commercial sales of food and medicine to Cuba shall only be made pursuant to a specific license for each transaction issued by the United States Government.

(b) PREVENTION OF TORTURE AND PROLIFERATION OF CHEMICAL OR BIOLOGICAL WEAPONS.—Nothing in subsection (a) shall be construed as authorizing the sale or transfer of equipment, medicines, or medical supplies that could be used for purposes of torture or human rights abuses or in the development of chemical or biological weapons.

(c) DONATION OF FOOD AND HUMANITARIAN ASSISTANCE TO THE CUBAN PEOPLE.—

(1) IN GENERAL.—Of the amounts available under this Act (including agricultural commodities), under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), or chapter 4 of part II of that Act (relating to the economic support fund) in any fiscal year, up to $25,000,000 may be made available each fiscal year to carry out activities under section 109(a) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6039(a)) or to provide humanitarian assistance through independent nongovernmental organizations to victims of political repression in Cuba.

(2) SAFEGUARDS ON ASSISTANCE.—(A) Funds made available under paragraph (1) shall be subject to notification of the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(B) Assistance may not be provided under this section if any assistance is likely to be or is found to have been diverted to the Cuban government, to any coercive organization affiliated with the Cuban government, or to any organization that has violated any law or regulation of the United States regarding exports to or financial transactions with Cuba.

AMENDMENT NO. 2434

At the appropriate place, insert the following:

SEC. ___. LICENSING REQUIREMENT FOR COUNTRIES SUPPORTING ACTS OF INTERNATIONAL TERRORISM.

The export of any medicine, medical device, or agricultural commodity sold under contract to any country the government of which the Secretary of States determines under section 6(j) of the Export Administration Act of 1979 has repeatedly provided support for acts of international terrorism shall be made pursuant to a specific license.

AMENDMENT NO. 2435

At the appropriate place in the bill, insert the following:

SEC. ____. The commercial export of agricultrual commodities or medicine to a country the government of which on June 1, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) shall only be made—

(1) pursuant to a specific license for each transaction issued by the United States Government;

(2) to nongovernmental organizations or entities, or parastatal organizations, if such organizations or entities are not associated in any way with a coercive body of a government; and

(3) subject to notification of the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

AMENDMENT NO. 2436

At the end of the amendment, add the following new section:

SEC. ___. LIMITATION ON COMMERCIAL SALES OF FOOD AND MEDICINE.

(a) TREATMENT OF SALES IF COUNTRY IS ON THE LIST OF TERRORIST STATES.—At any time during which a country has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), commercial sales of food and medicine to such country shall only be made pursuant to a specific license for each transaction issued by the United States Government.

(b) PREVENTION OF TORTURE AND PROLIFERATION OF CHEMICAL OR BIOLOGICAL WEAPONS.—Nothing in subsection (a) shall be construed as authorizing the sale or transfer of equipment, medicines, or medical supplies that could be used for purposes of torture or human rights abuses or in the development of chemical or biological weapons.

AMENDMENT NO. 2437

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with _____, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2438

At the appropriate place in the bill, insert the following:

SEC. ____. Nothing in this Act shall be construed as authorizing commercial exports or other transactions with any country that on June 1, 1999, was determined by the Secretary of State to have been a country the government of which had repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2439

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing any commercial sale that is otherwise prohibited by law to any country that on June 20, 1999, had been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2440

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Sudan, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2441

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Libya, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2442

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with North Korea, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2443

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Iran, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2444

At the appropriate place in the bill, insert the following:

SEC. ____. (a) Nothing in this Act shall be construed as authorizing commercial transactions with Cuba, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2445

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Syria, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

AMENDMENT NO. 2446

At an appropriate place, insert the following:

SEC. ___. EXCLUSION RELATING TO COUNTRY SUPPORTIVE OF INTERNATIONAL TERRORISM.

Nothing in this Act shall be construed as authorizing financing or United States Government credit for commercial transactions with Iraq, which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

ROTH AMENDMENT NO. 2447

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2354 submitted by Mr. LEVIN to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 4 and at the appropriate place in the bill insert the following:

SEC. . PROHIBITION ON IMPORTS MADE WITH CHILD LABOR.

Consistent with the requirements of section 307 of the Tariff Act of 1930, as amended by this Act, none of the benefits provided by the amendments made by this Act shall be made available to any imports that are made with forced or indentured child labor.

ROTH AMENDMENT NO. 2448

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2373 submitted by Mr. COVERDELL to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 2 through page 2, line 3 and at the appropriate place in the bill insert the following:

SEC. . COOPERATION WITH EFFORTS TO COMBAT MONEY LAUNDERING.

In determining a country's eligibility for the beneficial trade preferences provided for under this Act, the President shall consider whether such country has taken steps to prevent its financial system from being used to circumvent the criminal laws of the United States relating to money laundering and other illegal financial activities.

ROTH AMENDMENT NO. 2449

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2378 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on line 1 through 10 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

ROTH AMENDEMNT NO. 2450

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2379 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 11 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

ROTH AMENDMENT NO. 2451

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 10 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

ROTH AMENDMENT NO. 2452

(Ordered to lie on the table.

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2381 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 3 through page 2, line5 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES,

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2453

(Ordered to lie on the table.)

Mr. ROTH submitted and amendment intended to be proposed by him to

amendment No. 2382 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 4 through 9 and at the appropriate place in the bill insert the following:

The benefits provided by this Act and the amendments made by this Act shall terminate immediately if:

(a) the Bureau of Labor Statistics determines that United States textile and apparel industries have lost 50,000 or more jobs at any time during the first 24 months after the date of enactment of this Act; and,

(b) the International Trade Commission determines that such job losses are directly attributable to the benefits provided by this Act and are not attributable to any other cause.

ROTH AMENDMENT NO. 2454

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2383 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 4 through 9 and at the appropriate place in the bill insert the following:

SEC. . TERMINATION OF BENEFITS IF DOMESTIC INDUSTRY SUFFERS.

The benefits provided by this Act and the amendments made by this Act shall terminate immediately if:

(a) the Bureau of labor Statistics determines that United States textile and apparel industries have lost 50,000 or more jobs at any time during the first 24 months after the date of enactment of this Act; and

(b) the International Trade Commission determines that such job losses are directly attributable to increased trade resulting from the benefits provided by this Act and are not attributable to any other cause.

ROTH AMENDMENT NO. 2455

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2384 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 10 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2456

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2385 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through line 12 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2457

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2386 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 11 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2458

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2387 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 2 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF MARKET BARRIERS IN BENEFICIARY COUNTRIES.

The President shall take any action he deems necessary under his existing authority to eliminate any trade barriers that, in his view, unduly restrict the access of United States goods, services or investments to the market of a country to which benefits are conferred under this Act.

ROTH AMENDMENT NO. 2459

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2388 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 13 and at the appropriate place on the bill insert the following:

SEC. MINIMUM WAGE REQUIREMENT.

(a) Subject to the requirements of subsection (b), the benefits provided by this Act and the amendments made by this Act shall not be available to any country unless the President determines that:

(1) The country has established by law a requirement that employees in that country who are compensated on an hourly basis be compensated at a rate of not less than $1 per hour; and

(2) the goods imported from that country that are eligible for such benefits are produced in accordance with that law.

(b) The requirements of subsection (a) shall not apply in those instances where the beneficiary country has an unemployment rate that exceeds five percent.

ROTH AMENDMENT NO. 2460

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2389 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 3 and at the appropriate place in the bill insert the following:

SEC. . MINIMUM WAGE REQUIREMENT.

(a) Subject to the requirements of subsection (b), the benefits provided by this Act and the amendments made by this Act shall not be available to any country unless the President determines that:

(1) The Country has established by law a requirement that employees in that country who are compensated on an hourly basis be compensated at a rate of not less than $1 per hour; and

(2) the goods imported from that country that are eligible for such benefits are produced in accordance with that law.

(b) The requirements of subsection (a) shall not apply in those instances where the beneficiary country has an unemployment rate that exceeds five percent.

ROTH AMENDMENT NO. 2461

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2390 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 10 through page 2, line 9 and at the appropriate place in the bill insert the following:

(d) PROHIBITION ON IMPORTS MADE WITH CHILD LABOR.—Consistent with the requirements of section 307 of the Tariff Act of 1930, as amended by this Act, none of the benefits provided by the amendments made by this Act shall be made available to any imports that are made with forced or indentured child labor.

ROTH AMENDMENT NO. 2462

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2391 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on line 2 through line 11 and at the appropriate place in the bill insert the following:

SEC. . PROHIBITION ON IMPORTS MADE WITH CHILD LABOR.

Consistent with the requirements of section 307 of the Tariff Act of 1930, as amended by this Act, none of the benefits provided by the amendments made by this Act shall be made available to any imports that are made with forced or indentured child labor.

ROTH AMENDMENT NO. 2463

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2403 submitted by Mr. HARKIN to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 6 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF THE WORST FORMS OF CHILD LABOR.

In determining a country's eligibility for the benefits under this Act, the President shall consider whether such country has taken or is taking steps to comply with the

standards regarding child labor established by the ILO Convention (No. 182) for the Elimination of the Worst Forms of Child Labor.

ROTH AMENDMENT NO. 2464

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2404 submitted by Mr. HARKIN to the bill, H.R. 434, supra; as follows:

Strike all text on lines 1 through 10 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF THE WORST FORMS OF CHILD LABOR.

In determining a country's eligibility for the benefits under this Act, the President shall consider whether such country has taken or is taking steps to comply with the standards regarding child labor established by the ILO Convention (No. 182) for the Elimination of the Worst Forms of Child Labor.

ROTH AMENDMENT NO. 2465

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2405 submitted by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 2, on line 13, strike ''section 4'' and replace with ''section 104''.

Page 4, strike text from top of page to the last unnumbered line.

Page 4, line 19, redesignate paragraph as paragraph ''(C)''.

Page 4, line 25, strike ''section 4'' and replace with ''section 104''.

Page 5, line 8, replace ''section 105'' with ''section 115''.

Page 7, line 5, strike ''section 4'' and replace with ''section 104''.

Page 7, line 20, strike ''505A'' and replace with ''506B''.

Page 9, strike all text on that page and replace with the following:

''(1) the country adopts an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and (2) the country enacts legislation or promulgates regulations that would permit United States Customs Service verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

Page 14, strike line 22 through page 20, line 22.

ROTH AMENDMENT NO. 2466

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2406 proposed by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 4, strike text from top of page (line 6) through line 10.

Page 4, on line 25, strike ''section 4'' and replace with ''section 104''.

Page 5, on line 8, replace ''section 105'' with ''section 115''.

Page 7, strike lines 1 through 7.

ROTH AMENDMENT NO. 2467

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2416 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on lines 4 through line 9 and at the appropriate place in the bill insert the following:

The benefits provided by this Act and the amendments made by this Act shall terminate immediately if:

(a) The Bureau of Labor Statistics determines that United States textile and apparel industries have lost 50,000 or more jobs at any time during the first 24 months after the date of enactment of this Act; and,

(b) the International Trade Commission determines that such job losses are directly attributable to increased trade resulting from the benefits provided by this Act and are not attributable to any other cause.

ROTH AMENDMENT NO. 2468

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2417 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on line 1 through line 12 and at the appropriate place in the bill insert the following:

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2469

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2418 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 2 and at the appropriate place in the bill insert the following:

SEC. . ELIMINATION OF MARKET BARRIERS IN BENEFICIARY COUNTRIES.

The President shall take any action he deems necessary under his existing authority to eliminate any trade barriers that, in his view, unduly restrict the access of United States goods, services or investments to the market of a country to which benefits are conferred under this Act.

ROTH AMENDMENT NO. 2470

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2419 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 1 through page 2, line 5 and at the appropriate place in the bill insert the following:

SEC. . LABOR CONDITIONS IN BENEFICIARY COUNTRIES.

Within one year after the date of enactment of this Act, the President shall report to Congress regarding whether the labor-related conditions in this Act have been effective in encouraging beneficiary countries to take steps to afford internationally recognized worker rights to workers in such beneficiary countries.

SEC. . ENVIRONMENTAL COOPERATION WITH BENEFICIARY COUNTRIES.

With respect to any of the countries eligible for benefits under this Act, the President may, at his discretion, direct the Administrator of the Environmental Protection Agency to prepare a report identifying what actions should be taken on a bilateral or multilateral basis to assist such beneficiary country in taking the steps necessary to improve environmental conditions in that country.

ROTH AMENDMENT NO. 2471

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2421 submitted by Mr. HOLLINGS to the bill, H.R. 434, supra; as follows:

Strike all text on page 1, line 3 through page 2, line 3 and at the appropriate place in the bill insert the following:

(a) Subject to the requirements of subsection (b), the benefits provided by this Act and the amendments made by this Act shall not be available to any country unless the President determines that:

(1) the country has established by law a requirement that employees in that country who are compensated on an hourly basis be compensated at a rate of not less than $1 per hour; and,

(2) the goods imported from that country that are eligible for such benefits are produced in accordance with that law.

(b) The requirements of subsection (a) shall not apply in those instances where the beneficiary country has an unemployment rate that exceeds 5 percent.

ROTH AMENDMENT NO. 2472

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2430 submitted by Ms. LANDRIEU to the bill, H.R. 434, supra; as follows:

Strike text on page 2, line 1, beginning with ''more than 5 times'' and continuing through the end of the text on line 4, and replace with the following: ''at a level where inclusion of that country would undermine the policy objectives set forth in section 103 of Title I of this Act.''

HOLLINGS AMENDMENTS NOS. 2473–2474

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2473

At the appropriate place insert the following:

SEC. ——. RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

AMENDMENT NO. 2474

Strike all after the first word and insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

ROTH AMENDMENT NO. 2475

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2428 proposed by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 3, strike lines 5 through 18.

Page 3, redesignate section ''(E)'' as section ''(C)''.

Page 7, strike lines 18 through page 8, line 7, and replace with the following text:

''(1) the country adopts an efficient visa system to guard against unlawful transshipments of textile and apparel goods and the use of counterfeit documents; and

''(2) the country enacts legislation or promulgates regulations that would permit United States Customs verification teams to have the access necessary to investigate thoroughly allegations of transshipments through such country.''

Page 9, strike line 25 through page 18, line 7, and replace with the following text:

''(c) PENALTIES FOR TRANSSHIPMENTS.—

''(1) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel products from a beneficiary sub-Saharan African country, then the President shall deny all benefits under this section and section 506A of the Trade Act of 1974 to such exporter, any successor of such exporter, and any other entity owned or operated by the principal of the exporter for a period of 2 years.

''(2) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment for a textile or apparel article under subsection (a) has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article of any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subsection (a).

''(d) TECHNICAL ASSISTANCE.—The Customs Service shall provide technical assistance to the beneficiary sub-Saharan African countries for the implementation of the requirements set forth in subsection (a)(1) and (2).

''(e) MONITORING AND REPORTS TO CONGRESS.—The Customs Service shall monitor and the Commissioner of Customs shall submit to Congress, not later than March 31 of each year, a report on the effectiveness of the anti-circumvention systems described in this section and on measures taken by countries in sub-Saharan Africa which export textile or apparel to the United States to prevent circumvention as described in article 5 of the Agreement on Textiles and Clothing.

''(f) SAFEGUARD.—The President shall have the authority to impose appropriate remedies, including restrictions on or the removal of quota-free and duty-free treatment provided under this section, in the event that textile and apparel articles from a beneficiary sub-Saharan African country are being imported in such increased quantities as to cause serious damage, or actual threat thereof, to the domestic industry producing like or directly competitive articles. The President shall exercise his authority under this subsection consistent with the Agreement on Textiles and Clothing.

''(g) DEFINITIONS.—In this section:

''(1) AGREEMENT ON TEXTILES AND CLOTHING.—The term 'Agreement on Textiles and Clothing' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

''(2) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY, ETC.—The terms 'beneficiary sub-Saharan African countries' and 'beneficiary sub-Saharan African countries' have the same meaning as such terms have under section 506A(c) of the Trade Act of 1974.

''(3) CUSTOMS SERVICE.—The term 'Customs Service' means the United States Customs Service.''

ROTH AMENDMENT NO. 2476

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to amendment No. 2427 submitted by Mr. FEINGOLD to the bill, H.R. 434, supra; as follows:

Make the following modifications to the text:

Page 1, strike text beginning on line 3 through page 23, line 11, and replace with the following:

''SEC. 111. ELIGIBILITY FOR CERTAIN BENEFITS.

''(a) IN GENERAL.—Title V of the Trade Act of 1974 is amended by inserting after section 506 the following new section:

''SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.

''(a) AUTHORITY TO DESIGNATE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 4 of the African Growth and Opportunity Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b), if the President determines that the country—

''(A) has established, or is making continual progress toward establishing—

''(i) a market-based economy, where private property rights are protected and the principles of an open, rules-based trading system are observed;

''(ii) a democratic society, where the rule of law, political freedom, participatory democracy, and the right to due process and a fair trial are observed;

''(iii) an open trading system through the elimination of barriers to United States trade and investment and the resolution of bilateral trade and investment disputes; and

''(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, and promote the establishment of private enterprise;

''(B) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities; and

''(C) subject to the authority granted to the President under section 502 (a), (d), and (e), otherwise satisfies the eligibility criteria set forth in section 502.

''(2) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of each country listed in section 4 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of subsection (a). The President shall include the reasons for the President's determinations in the annual report required by section 105 of the African Growth and Opportunity Act.

''(3) CONTINUING COMPLIANCE.—If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

''(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

''(1) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1) (B) through (G) (except for textile luggage) that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 503(e), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

''(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

''(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and

''(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries shall be applied in determining such percentage.

''(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title, the terms 'beneficiary sub-Saharan African country' and beneficiary sub-Saharan African countries' mean a country or countries listed in section 104 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.''.

(b) WAIVER OF COMPETITIVE NEED LIMITATION.—Section 503(c)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2463(c)(2)(D)) is amended to read as follows:

(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any beneficiary sub-Saharan African country.''.

(c) TERMINATION.—Title V of the Trade Act of 1974 is amended by inserting after section 505 of the following new section:

''SEC. 505A. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.

''In the case of a country listed in section 4 of the African Growth and Opportunity Act that is a beneficiary developing country,

duty-free treatment provided under this title shall remain in effect through September 30, 2006.''.

(d) CLERICAL AMENDMENTS.—The table of contents for title V of the Trade Act of 1974 is amended—

(1) by inserting after the item relating to section 505 the following new item: ''505A. Termination of benefits for sub-Saharan African countries.''; and

(2) by inserting after the item relating to section 506 the following new item: ''506A. Designation of sub-Saharan African countries for certain benefits.''.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999.

SEC. 112. TREATMENT OF CERTAIN TEXTILES AND APPAREL.

(a) PREFERENTIAL TREATMENT.—Notwithstanding any other provision of law, textile and apparel articles described in subsection (b) (including textile luggage) imported from a beneficiary sub-Saharan African country, described in section 506A(c) of the Trade Act of 1974, shall enter the United States free of duty and free of any quantitative limitations, if—

(1) the country adopts an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

(2) the country enacts legislation or promulgates regulations that would permit United States customs verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country.

(b) PRODUCTS COVERED.—The preferential treatment described in subsection (a) shall apply only to the following textile and apparel products:

(1) APPAREL ARTICLES ASSEMBLED IN BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States that are—

(A) entered under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States; or

(B) entered under chapter 61 or 62 of the Harmonized Tariff Schedule of the United States, if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States but for the fact that the articles were subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, or other similar processes.

(2) APPAREL ARTICLES CUT AND ASSEMBLED IN BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apprel articles cut in one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, if such articles are assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States.

(3) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this paragraph, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore goods.

(c) PENALTIES FOR TRANSSHIPMENTS.—

(1) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel products from a beneficiary sub-Saharan African country, then the President shall deny all benefits under this section and section 506A of the Trade Act of 1974 to such exporter, any successor of such exporter, and any other entity owned or operated by the principal of the exporter for a period of 2 years.

(2) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment for a textile or apparel article under subsection (a) has been claimed on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subsection (a).

(d) TECHNICAL ASSISTANCE.—The Customs Service shall provide technical assistance to the beneficiary sub-Saharan African countries for the implementation of the requirements set forth in subsection (a)(1) and (2).

(e) MONITORING AND REPORTS TO CONGRESS.—The Customs Service shall monitor and the Commissioner of Customs shall submit to Congress not later than March 31 of each year, a report on the effectiveness of the anti-circumvention system described in this section and on measures taken by countries in sub-Saharan Africa which export textiles or apparel to the United States to prevent circumvention as described in article 5 of the Agreement on Textiles and Clothing.

(f) SAFEGUARD.—The President shall have the authority to impose appropriate remedies, including restrictions on or the removal of quota-free and duty-free treatment provided under this section, in the event that textile and apparel articles from a beneficiary sub-Saharan African country are being imported in such increased quantities as to cause serious damage, or actual threat thereof, to the domestic industry producing like or directly competitive articles. The President shall exercise his authority under this subsection consistent with the Agreement on Textile and Clothing.

(g) DEFINITIONS.—In this section:

(1) AGREEMENT ON TEXTILES AND CLOTHING.—The term ''Agreement on Textiles and Clothing'' means the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

(2) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY, ETC.—The terms ''beneficiary sub-Saharan African country'' and ''beneficiary sub-Saharan African countries'' have the same meaning as such terms have under section 506A(c) of the Trade Act of 1974.

(3) CUSTOMS SERVICE.—The term ''Customs Service'' means the United States Customs Service.

(h) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999 and shall remain in effect through September 30, 2006.

Page 23, line 12, redesignate section 114 as section 113.

Page 25, after line 8, insert the following text:

''SEC. 114. UNITED STATES-SUB-SAHARAN AFRICA FREE TRADE AREA.

''(a) IN GENERAL.—The President shall examine the feasibility of negotiating a free trade agreement (or agreements) with interested sub-Saharan African countries.

''(b) REPORT TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the President shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the President's conclusions on the feasibility of negotiating such agreement (or agreements). If the President determines that the negotiation of any such free trade agreement is feasible, the President shall provide a detailed plan for such negotiation that outlines the objectives, timing, any potential benefits to the United States and sub-Saharan Africa, and the likely economic impact of any such agreement.''.

KERRY AMENDMENT NO. 2477

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert:

SEC. ___. CREDIT FOR MEDICAL RESEARCH RELATED TO DEVELOPING VACCINES AGAINST WIDESPREAD DISEASES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45D. CREDIT FOR MEDICAL RESEARCH RELATED TO DEVELOPING VACCINES AGAINST WIDESPREAD DISEASES.

''(a) GENERAL RULE.—For purposes of section 38, the vaccine research credit determined under this section for the taxable year is an amount equal to 30 percent of the qualified vaccine research expenses for the taxable year.

''(b) QUALIFIED VACCINE RESEARCH EXPENSES.—For purposes of this section—

''(1) QUALIFIED VACCINE RESEARCH EXPENSES.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified vaccine research expenses' means the amounts which are paid or incurred by the taxpayer during the taxable year which would be described in subsection (b) of section 41 if such subsection were applied with the modifications set forth in subparagraph (B).

''(B) MODIFICATIONS.—For purposes of subparagraph (A), subsection (b) of section 41 shall be applied—

''(i) by substituting 'vaccine research' for 'qualified research' each place it appears in paragraphs (2) and (3) of such subsection, and

''(ii) by substituting '75 percent' for '65 percent' in paragraph (3)(A) of such subsection.

''(C) EXCLUSION FOR AMOUNTS FUNDED BY GRANTS, ETC.—The term 'qualified vaccine research expenses' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

''(2) VACCINE RESEARCH.—The term 'vaccine research' means research to develop vaccines and microbicides for—

''(A) malaria,

''(B) tuberculosis, or

''(C) HIV.

''(c) COORDINATION WITH CREDIT FOR INCREASING RESEARCH EXPENDITURES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), any qualified vaccine research expenses for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 41 for such taxable year.

''(2) EXPENSES INCLUDED IN DETERMINING BASE PERIOD RESEARCH EXPENSES.—Any qualified vaccine research expenses for any taxable year which are qualified research expenses (within the meaning of section 41(b)) shall be taken into account in determining base period research expenses for purposes of applying section 41 to subsequent taxable years.

''(d) SPECIAL RULES.—

''(1) LIMITATIONS ON FOREIGN TESTING.—No credit shall be allowed under this section with respect to any vaccine research (other than human clinical testing) conducted outside the United States by any entity which is not registered with the Secretary.

''(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (1) and (2) of section 41(f) shall apply for purposes of this section.

''(3) ELECTION.—This section (other than subsection (e)) shall apply to any taxpayer for any taxable year only if such taxpayer elects to have this section apply for such taxable year.

''(e) SHAREHOLDER EQUITY INVESTMENT CREDIT IN LIEU OF RESEARCH CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the vaccine research credit determined under this section for the taxable year shall include an amount equal to 20 percent of the amount paid by the taxpayer to acquire qualified research stock in a corporation if—

''(A) the amount received by the corporation for such stock is used within 18 months after the amount is received to pay qualified vaccine research expenses of the corporation for which a credit would (but for subparagraph (B) and subsection (d)(3)) be determined under this section, and

''(B) the corporation waives its right to the credit determined under this section for the qualified vaccine research expenses which are paid with such amount.

''(2) QUALIFIED RESEARCH STOCK.—For purposes of paragraph (1), the term 'qualified research stock' means any stock in a C corporation—

''(A) which is originally issued after the date of the enactment of the Lifesaving Vaccine Technology Act of 1999,

''(B) which is acquired by the taxpayer at its original issue (directly or through an underwriter) in exchange for money or other property (not including stock), and

''(C) as of the date of issuance, such corporation meets the gross assets tests of subparagraphs (A) and (B) of section 1202(d)(1).

''(f) TERMINATION.—This section shall not apply to any amount paid or incurred after December 31, 2000.''

(b) INCLUSION IN GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting '', plus'', and by adding at the end the following new paragraph:

''(13) the vaccine research credit determined under section 45D.''.

(2) TRANSITION RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(9) NO CARRYBACK OF SECTION 45D CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the vaccine research credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 45D.''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) CREDIT FOR QUALIFIED VACCINE RESEARCH EXPENSES.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified vaccine research expenses (as defined in section 45D(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45D(a).

''(2) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (2), (3), and (4) of subsection (c) shall apply for purposes of this subsection.''.

(d) DEDUCTION FOR UNUSED PORTION OF CREDIT.—Section 196(c) (defining qualified business credits) is amended by striking ''and'' at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting '', and'', and by adding at the end the following new paragraph:

''(9) the vaccine research credit determined under section 45D(a) (other than such credit determined under the rules of section 280C(d)(2)).''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45D. Credit for medical research related to developing vaccines against widespread diseases.''.

(f) EFFECTIVE DATE.—Except as provided in subsection (k), the amendments made by this section shall apply to amounts paid or incurred after December 31, 1999, in taxable years ending after such date.

(g) DISTRIBUTION OF VACCINES DEVELOPED USING CREDIT.—It is the sense of Congress that if a tax credit is allowed under section 45D of the Internal Revenue Code of 1986 (as added by subsection (a)) to any corporation or shareholder of a corporation by reason of vaccine research expenses incurred by the corporation in the development of a vaccine, such corporation should certify to the Secretary of the Treasury that, within 1 year after that vaccine is first licensed, such corporation will establish a good faith plan to maximize international access to high quality and affordable vaccines.

(h) STUDY.—The Secretary of the Treasury, in consultation with the Institute of Medicine, shall conduct a study of the effectiveness of the credit under section 45D of the Internal Revenue Code of 1986 (as so added) in stimulating vaccine research. Not later than the date which is 4 years after the date of the enactment of this Act, the Secretary shall submit to the Congress the results of such study together with any recommendations the Secretary may have to improve the effectiveness of such credit in stimulating vaccine research.

(i) ACCELERATION OF INTRODUCTION OF PRIORITY VACCINES.—It is the sense of Congress that the President and Federal agencies (including the Department of State, the Department of Health and Human Services, and the Department of the Treasury) should work together in vigorous support of the creation and funding of a multi-lateral, international effort, such as a vaccine purchase fund, to accelerate the introduction of vaccines to which the tax credit under section 45D of the Internal Revenue Code of 1986 (as so added) applies and of other priority vaccines into the poorest countries in the world.

(j) FLEXIBLE PRICING.—It is the sense of Congress that flexible or differential pricing for vaccines, providing lowered prices for the poorest countries, is one of several valid strategies to accelerate the introduction of vaccines in developing countries.

(k) EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

''(a) GENERAL RULE.—The Secretary shall establish a program requiring the payment of user fees for—

''(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

''(2) other similar requests.

''(b) PROGRAM CRITERIA.—

''(1) IN GENERAL.—The fees charged under the program required by subsection (a)—

''(A) shall vary according to categories (or subcategories) established by the Secretary,

''(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

''(C) shall be payable in advance.

''(2) EXEMPTIONS, ETC.—The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

''(3) AVERAGE FEE REQUIREMENT.—The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

''Category:	Average Fee:
Employee plan ruling and opinion ..	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination.	$275
Chief counsel ruling	$200.

''(c) TERMINATION.—No fee shall be imposed under this section with respect to requests made after September 30, 2009.''.

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7527. Internal Revenue Service user fees.''.

(B) Section 10511 of the Revenue Act of 1987 is repealed.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to requests made after the date of the enactment of this Act.

BANKRUPTCY REFORM ACT OF 1999

THURMOND AMENDMENT NO. 2478

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill (S. 625) to amend title 11, United States Code, and for other purposes, as follows:

On page 124, insert between lines 14 and 15 the following:

SEC. 322. EXCLUSIVE JURISDICTION IN MATTERS INVOLVING BANKRUPTCY PROFESSIONALS.

Section 1334 of title 28, United States Code, is amended—

(1) in subsection (b) by striking ''Notwithstanding'' and inserting ''Except as provided in subsection (e)(2), and notwithstanding''; and

(2) amending subsection (e) to read as follows:

''(e) The district court in which a case under title 11 is commenced or is pending shall have exclusive jurisdiction—

''(1) of all the property, wherever located, of the debtor as of the commencement of such case, and of property of the estate; and

''(2) over all matters relating to that case concerning the employment and compensation of professional persons arising out of or related to their employment and performance or nonperformance of the duties undertaken in connection with their employment.''.

AFRICAN GROWTH AND OPPORTUNITY ACT

BINGAMAN AMENDMENT NO. 2479

(Ordered to lie on the table.)

Mr. BINGAMAN submitted an amendment to amendment No. 2325 proposed by Senator ROTH, to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. REPORT.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this section, the Comptroller General of the United States shall submit a report to Congress regarding the efficiency and effectiveness of Federal and State coordination of unemployment and retraining activities associated with the following programs and legislation:

(1) trade adjustment assistance (including NAFTA trade adjustment assistance) provided for under title II of the Trade Act of 1974;

(2) the Job Training Partnership Act;

(3) the Workforce Investment Act; and

(4) unemployment insurance.

(b) PERIOD COVERED.—The report shall cover the activities involved in the programs and legislation listed in subsection (a) from January 1, 1994 to December 31, 1999.

(c) DATA AND RECOMMENDATIONS.—The report shall at a minimum include specific data and recommendations regarding—

(1) the compatibility of program requirements related to the employment and retraining of dislocated workers in the United States, with particular emphasis on the trade adjustment assistance programs provided for under title II of the Trade Act of 1974;

(2) the compatibility of application procedures related to the employment and retraining of dislocated workers in the United States;

(3) the capacity of these programs to assist workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(4) the capacity of these programs to assist secondary workers negatively impacted by foreign trade and the transfer of production to other countries, measured in terms of employment and wages;

(5) how the impact of foreign trade and the transfer of production to other countries would have changed the number of beneficiaries covered under the trade adjustment assistance program if the trade adjustment assistance program covered secondary workers in the United States; and

(6) the effectiveness of the programs described in subsection (a) in achieving reemployment of United States workers and maintaining wage levels of United States workers who have been dislocated as a result of foreign trade and the transfer of production to other countries.

NICKLES AMENDMENT NO. 2480

(Ordered to lie on the table.)

Mr. NICKLES submitted an amendment to the bill, H.R. 434, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC . APPLICATION OF DENIAL OF FOREIGN TAX CREDIT REGARDING TRADE AND INVESTMENT WITH RESPECT TO CERTAIN FOREIGN COUNTRIES.

(a) IN GENERAL.—Section 901(j) of the Internal Revenue Code of 1986 (relating to denial of foreign tax credit, etc., regarding trade and investment with respect to certain foreign countries) is amended by adding at the end the following new paragraph:

''(5) WAIVER OF DENIAL.—

''(A) IN GENERAL.—Paragraph (1) shall not apply with respect to taxes paid or accrued to a country if the President—

''(i) determines that a waiver of the application of such paragraph is in the national interest of the United States and will expand trade and investment opportunities for U.S. companies in such country, and

''(ii) reports such waiver under subparagraph (B).

''(B) REPORT.—Not less than 30 days before the date on which a waiver is granted under this paragraph, the President shall report to Congress—

''(i) the intention to grant such waiver, and

''(ii) the reason for the determination under subparagraph (A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply on or after February 1, 2001.

HOLLINGS AMENDMENTS NOS. 2481–2482

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2481

At the appropriate place, insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

AMENDMENT NO. 2482

Strike all after the first word and insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

HOLLINGS AMENDMENT NO. 2483

Mr. HOLLINGS proposed an amendment to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

HOLLINGS AMENDMENT NO. 2484

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

Strike all after the first word and insert the following:

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

HOLLINGS AMENDMENT NO. 2485

Mr. HOLLINGS proposed an amendment to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

HOLLINGS AMENDMENT NO. 2486

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

Strike all after the first word and insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

WELLSTONE AMENDMENT NO. 2487

(Ordered to lie on the table.)

Mr. WELLSTONE submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, add the following:

SEC. . ENCOURAGING TRADE AND INVESTMENT MUTUALLY BENEFICIAL TO BOTH THE UNITED STATES AND CARIBBEAN COUNTRIES.

(a) CONDITIONING OF TRADE BENEFITS ON COMPLIANCE WITH INTERNATIONALLY RECOGNIZED LABOR RIGHTS.—None of the benefits provided to beneficiary countries under the CBTEA shall be made available before the Secretary of Labor has made a determination pursuant to paragraph (b) of the following:

(1) The beneficiary country does not engage in significant violations of internationally recognized human rights and the Secretary of State agrees with this determination; and

(2)(A) The beneficiary country is providing for effective enforcement of internationally recognized worker rights throughout the country (including in export processing zones) as determined under paragraph (b), including the core labor standards enumerated in the appropriate treaties of the International Labor Organization, and including—

(i) the right of association;

(ii) the right to organize and bargain collectively;

(iii) a prohibition on the use of any form of coerced or compulsory labor;

(iv) the international minimum age for the employment of children (age 15); and

(v) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(B) The government of the beneficiary country ensures that the Secretary of Labor, the head of the national labor agency of the government of that country, and the head of the Interamerican Regional Organization of Workers (ORIT) each has access to all appropriate records and other information of all business enterprises in the country.

(b) DETERMINATION OF COMPLIANCE WITH INTERNATIONALLY RECOGNIZED WORKER RIGHTS:—

(1) DETERMINATION—

(A) IN GENERAL.—For purposes of carrying out paragraph (a)(2), the Secretary of Labor, in consultation with the individuals described in clause (B) and pursuant to the procedures described in clause (C), shall determine whether or not each beneficiary country is providing for effective enforcement of internationally recognized worker rights throughout the country (including in export processing zones).

(B) INDIVIDUALS DESCRIBED.—The individuals described in this clause are the head of the national labor agency of the government of the beneficiary country in question and the head of the Inter-American Regional Organization of Workers (ORIT).

(C) PUBLIC COMMENT.—Not later tan 90 days before the Secretary of Labor makes a determination that a country is in compliance with the requirements of paragraph (a)(2), the Secretary shall publish notice in the Federal Register and an opportunity for public comment. The Secretary shall take into consideration the comments received in making a determination under such paragraph (a)(2).

(2) CONTINUING COMPLIANCE.—In the case of a country for which the Secretary of Labor has made an initial determination under subparagraph (1) that the country is in compliance with the requirements of paragraph (a)(2), the Secretary, in consultation with the individuals described in subparagraph (1), shall, not less than once every 3 years thereafter, conduct a review and make a determination with respect to that country to ensure continuing compliance with the requirements of paragraph (a)(2). The Secretary shall submit the determination to Congress.

(3) REPORT.—Not later than 6 months after the date of enactment of this Act, and on an annual basis thereafter, the Secretary of Labor shall prepare and submit to Congress a report containing—

(A) a description of each determination made under this paragraph during the preceding year;

(B) a description of the position taken by each of the individuals described in subparagraph (1)(B) with respect to each such determination; and

(C) a report on the public comments received pursuant to subparagraph (1)(C).

(c) ADDITIONAL ENFORCEMENT.—A citizen of the United States shall have a cause of action in the United States district court in the district in which the citizen resides or in any other appropriate district to seek compliance with the standards set forth under this section with respect to any CBTEA beneficiary country, including a cause of action in an appropriate United States district court for other appropriate equitable relief. In addition to any other relief sought in such an action, a citizen may seek the value of any damages caused by the failure of a country or company to comply.

ASHCROFT (AND OTHERS) AMENDMENT NO. 2488

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. DASCHLE, Mr. BAUCUS, Mr. BURNS, Mr. BROWNBACK, Mr. GRASSLEY, Mr. INHOFE, Mr. HARKIN, Mr. ROBB, Mr. CRAIG, Mr. DORGAN, Mr. LUGAR, Mr. HELMS, Mr. DURBIN, Mr. INOUYE, Mr. CONRAD, Mr. WYDEN, Mr. GORTON, Mr. THOMAS, Ms. COLLINS, Mr. ROBERTS, Mr. BINGAMAN, Mr. MCCONNELL, Mr. JOHNSON, Mr. FITZGERALD, Mr. GRAMS, Mr. ALLARD, Mr. HUTCHINSON, Mr. BOND, Mr. ENZI, and Mr. CRAPO) submitted an amendment intended to be proposed by them to the bill, H.R. 434, as follows:

At the appropriate place, add the following:

SEC. . CHIEF AGRICULTURAL NEGOTIATOR.

(a) ESTABLISHMENT OF A POSITION.—There is established the position of Chief Agricultural Negotiator in the Office of the United States Trade Representative. The Chief Agricultural Negotiator shall be appointed by the President, with the rank of Ambassador, by and with the advice and consent of the Senate.

(b) FUNCTIONS.—The primary function of the Chief Agricultural Negotiator shall be to conduct trade negotiations and to enforce trade agreements relating to U.S. agricultural products and services. The Chief Agricultural Negotiator shall be a vigorous advocate on behalf of U.S. agricultural interests. The Chief Agricultural Negotiator shall perform such other functions as the United States Trade Representative may direct.

(c) COMPENSATION.—The Chief Agricultural Negotiator shall be paid at the highest rate of basic pay payable to a member of the Senior Executive Service.

SANTORUM AMENDMENT NO. 2489

(Ordered to lie on the table.)

Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

On page 22, between lines 5 and 6, insert the following new section:

SEC. 116. STUDY ON IMPROVING AFRICAN AGRICULTURAL PRACTICES.

(a) IN GENERAL.—The United States Department of Agriculture, in consultation with American Land Grant Colleges and Universities and not-for-profit international organizations, is authorized to conduct a two-year study on ways to improve the flow of American farming techniques and practices to African farmers. The study conducted by the Department of Agriculture shall include an examination of ways of improving or utilizing—

(1) knowledge of insect and sanitation procedures;

(2) modern farming and soil conservation techniques;

(3) modern farming equipment (including maintaining the equipment);

(4) marketing crop yields to prospective purchasers; and

(5) crop maximization practices.

The study shall be submitted to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives not later than September 30, 2001.

(b) LAND GRANT COLLEGES AND NOT-FOR-PROFIT INSTITUTIONS.—The Department of Agriculture is encouraged to consult with American Land Grant Colleges and not-for-profit international organizations that have firsthand knowledge of current African farming practices.

(c) AUTHORIZATION OF FUNDING.—There is authorized to be appropriated $2,000,000 to conduct the study described in subsection (a).

GRAMM (AND OTHERS) AMENDMENT NO. 2490

(Ordered to lie on the table.)

Mr. GRAMM (for himself, Mr. ENZI, and Mr. JOHNSON) submitted an amendment intended to be proposed by them to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Export Administration Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—GENERAL AUTHORITY

Sec. 101. Commerce Control List.
Sec. 102. Delegation of authority.
Sec. 103. Public information; consultation requirements.
Sec. 104. Right of export.
Sec. 105. Export control advisory committees.
Sec. 106. Prohibition on charging fees.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

Sec. 201. Authority for national security export controls.
Sec. 202. National Security Control List.
Sec. 203. Country tiers.
Sec. 204. Incorporated parts and components.
Sec. 205. Petition process for modifying export status.

Subtitle B—Foreign Availability and Mass-Market Status

Sec. 211. Determination of foreign availability and mass-market status.
Sec. 212. Presidential set-aside of foreign availability determination.
Sec. 213. Presidential set-aside of mass-market status determination.
Sec. 214. Office of Technology Evaluation.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

Sec. 301. Authority for foreign policy export controls.
Sec. 302. Procedures for imposing controls.
Sec. 303. Criteria for foreign policy export controls.
Sec. 304. Presidential report before imposition of control.
Sec. 305. Imposition of controls.
Sec. 306. Deferral authority.
Sec. 307. Review, renewal, and termination.
Sec. 308. Termination of controls under this title.
Sec. 309. Compliance with international obligations.
Sec. 310. Designation of countries supporting international terrorism.

TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES

Sec. 401. Exemption for agricultural commodities, medicine, and medical supplies.
Sec. 402. Termination of export controls required by law.
Sec. 403. Exclusions.

TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

Sec. 501. Export license procedures.

Sec. 502. Interagency dispute resolution process.
TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT
Sec. 601. International arrangements.
Sec. 602. Foreign boycotts.
Sec. 603. Penalties.
Sec. 604. Multilateral export control regime violation sanctions.
Sec. 605. Missile proliferation control violations.
Sec. 606. Chemical and biological weapons proliferation sanctions.
Sec. 607. Enforcement.
Sec. 608. Administrative procedure.
TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS
Sec. 701. Export control authority and regulations.
Sec. 702. Confidentiality of information.
TITLE VIII—MISCELLANEOUS PROVISIONS
Sec. 801. Annual and periodic reports.
Sec. 802. Technical and conforming amendments.
Sec. 803. Savings provisions.

SEC. 2. DEFINITIONS.

In this Act:

(1) AFFILIATE.—The term ''affiliate'' includes both governmental entities and commercial entities that are controlled in fact by the government of a country.

(2) AGRICULTURE COMMODITY.—The term ''agriculture commodity'' means any agricultural commodity, food, fiber, or livestock (including livestock, as defined in section 602(2) of the Emergency Livestock Feed Assistance Act of 1988 (title VI of the Agricultural Act of 1949 (7 U.S.C. 1471(2))), and including insects), and any product thereof.

(3) CONTROL OR CONTROLLED.—The terms ''control'' and ''controlled'' mean any requirement, condition, authorization, or prohibition on the export or reexport of an item.

(4) CONTROL LIST.—The term ''Control List'' means the Commerce Control List established under section 101.

(5) CONTROLLED COUNTRY.—The term ''controlled country'' means a country with respect to which exports are controlled under section 201 or 301.

(6) CONTROLLED ITEM.—The term ''controlled item'' means an item the export of which is controlled under this Act.

(7) COUNTRY.—The term ''country'' means a sovereign country or an autonomous customs territory.

(8) COUNTRY SUPPORTING INTERNATIONAL TERRORISM.—The term ''country supporting international terrorism'' means a country designated by the Secretary of State pursuant to section 310.

(9) DEPARTMENT.—The term ''Department'' means the Department of Commerce.

(10) EXPORT.—

(A) The term ''export'' means—

(i) an actual shipment, transfer, or transmission of an item out of the United States;

(ii) a transfer to any person of an item either within the United States or outside of the United States with the knowledge or intent that the item will be shipped, transferred, or transmitted to an unauthorized recipient outside the United States; and

(iii) a transfer of an item in the United States to an embassy or affiliate of a country, which shall be considered an export to that country.

(B) The term includes a reexport.

(11) FOREIGN AVAILABILITY STATUS.—The term ''foreign availability status'' means the status described in section 211(d)(1).

(12) FOREIGN PERSON.—The term ''foreign person'' means—

(A) an individual who is not—

(i) a United States citizen;

(ii) an alien lawfully admitted for permanent residence to the United States; or

(iii) a protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act. (8 U.S.C. 1324b(a)(3));

(B) any corporation, partnership, business association, society, trust, organization, or other nongovernmental entity created or organized under the laws of a foreign country or that has its principal place of business outside the United States; and

(C) any governmental entity of a foreign country.

(13) ITEM.—

(A) IN GENERAL.—The term ''item'' means any good, service, or technology.

(B) OTHER DEFINITIONS.—In this paragraph:

(i) GOOD.—The term ''good'' means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, including source code, and excluding technical data.

(ii) TECHNOLOGY.—The term ''technology'' means specific information that is necessary for the development, production, or use of an item, and takes the form of technical data or technical assistance.

(iii) SERVICE.—The term ''service'' means any act of assistance, help or aid.

(14) MASS-MARKET STATUS.—The term ''mass-market status'' means the status described in section 211(d)(2).

(15) MULTILATERAL EXPORT CONTROL REGIME.—The term ''multilateral export control regime'' means an international agreement or arrangement among two or more countries, including the United States, a purpose of which is to coordinate national export control policies of its members regarding certain items. The term includes regimes such as the Australia Group, the Wassenaar Arrangement, the Missile Technology Control Regime (MTCR), and the Nuclear Suppliers' Group Dual Use Arrangement.

(16) NATIONAL SECURITY CONTROL LIST.—The term ''National Security Control List'' means the list established under section 202(a).

(17) PERSON.—The term ''person'' includes—

(A) any individual, or partnership, corporation, business association, society, trust, organization, or any other group created or organized under the laws of a country; and

(B) any government, or any governmental entity.

(18) REEXPORT.—The term ''reexport'' means the shipment, transfer, transshipment, or diversion of items from one foreign country to another.

(19) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(20) UNITED STATES.—The term ''United States'' means the States of the United States, the District of Columbia, and any commonwealth, territory, dependency, or possession of the United States, and includes the outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (42 U.S.C. 1331(a)).

(21) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any United States citizen, resident, or national (other than an individual resident outside the United States who is employed by a person other than a United States person);

(B) any domestic concern (including any permanent domestic establishment of any foreign concern); and

(C) any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations prescribed by the President.

TITLE I—GENERAL AUTHORITY

SEC. 101. COMMERCE CONTROL LIST.

(a) IN GENERAL.—Under such conditions as the Secretary may impose, consistent with the provisions of this Act, the Secretary—

(1) shall establish and maintain a Commerce Control List (in this Act referred to as the ''Control List'') consisting of items the export of which are subject to licensing or other authorization or requirement; and

(2) may require any type of license, or other authorization, including recordkeeping and reporting, appropriate to the effective and efficient implementation of this Act with respect to the export of an item on the Control List.

(b) TYPES OF LICENSE OR OTHER AUTHORIZATION.—The types of license or other authorization referred to in subsection (a)(2) include the following:

(1) SPECIFIC EXPORTS.—A license that authorizes a specific export.

(2) MULTIPLE EXPORTS.—A license that authorizes multiple exports in lieu of a license for each such export.

(3) NOTIFICATION IN LIEU OF LICENSE.— A notification in lieu of a license that authorizes a specific export or multiple exports subject to the condition that the exporter file with the Department advance notification of the intent to export in accordance with regulations prescribed by the Secretary.

(4) LICENSE EXCEPTION.—Authority to export an item on the Control List without prior license or notification in lieu of a license.

(c) AFTER-MARKET SERVICE AND REPLACEMENT PARTS.—A license or other authorization to export an item under this Act shall not be required for an exporter to provide after-market service or replacement parts, to replace on a one-for-one basis parts that were in an item that was lawfully exported from the United States, unless—

(1) the Secretary determines that such license or other authorization is required to export such parts; or

(2) the after-market service or replacement parts materially enhance the capability of an item which was the basis for the item being controlled.

(d) INCIDENTAL TECHNOLOGY.—A license or other authorization to export an item under this Act includes authorization to export technology related to the item, if the level of the technology does not exceed the minimum necessary to install, repair, maintain, inspect, operate, or use the item.

(e) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out the provisions of this Act.

SEC. 102. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—Except as provided in subsection (b) and subject to the provisions of this Act, the President may delegate the power, authority, and discretion conferred upon the President by this Act to such departments, agencies, and officials of the Government as the President considers appropriate.

(b) EXCEPTIONS.—

(1) DELEGATION TO APPOINTEES CONFIRMED BY SENATE.—No authority delegated to the President under this Act may be delegated by the President to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate.

(2) OTHER LIMITATIONS.—The President may not delegate or transfer the President's power, authority, or discretion to overrule or modify any recommendation or decision made by the Secretary, the Secretary of Defense, or the Secretary of State under this Act.

SEC. 103. PUBLIC INFORMATION; CONSULTATION REQUIREMENTS.

(a) PUBLIC INFORMATION.—The Secretary shall keep the public fully informed of changes in export control policy and procedures instituted in conformity with this Act.

(b) CONSULTATION WITH PERSONS AFFECTED.—The Secretary shall consult regularly with representatives of a broad spectrum of enterprises, labor organizations, and citizens interested in or affected by export controls in order to obtain their views on United States export control policy and the foreign availability or mass-market status of controlled items.

SEC. 104. RIGHT OF EXPORT.

No license or other authorization to export may be required under this Act, or under regulations issued under this Act, except to carry out the provisions of this Act.

SEC. 105. EXPORT CONTROL ADVISORY COMMITTEES.

(a) APPOINTMENT.—Upon the Secretary's own initiative or upon the written request of representatives of a substantial segment of any industry which produces any items subject to export controls under this Act or under the International Emergency Economic Powers Act, or being considered for such controls, the Secretary may appoint export control advisory committees with respect to any such items. Each such committee shall consist of representatives of United States industry and Government, including the Department of Commerce and other appropriate departments and agencies of the Government. The Secretary shall permit the widest possible participation by the business community on the export control advisory committees.

(b) FUNCTIONS.—

(1) IN GENERAL.—Export control advisory committees appointed under subsection (a) shall advise and assist the Secretary, and any other department, agency, or official of the Government carrying out functions under this Act, on actions (including all aspects of controls imposed or proposed) designed to carry out the provisions of this Act concerning the items with respect to which such export control advisory committees were appointed.

(2) OTHER CONSULTATIONS.—Nothing in paragraph (1) shall prevent the United States Government from consulting, at any time, with any person representing an industry or the general public, regardless of whether such person is a member of an export control advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Secretary, to present evidence to such committees.

(c) REIMBURSEMENT OF EXPENSES.—Upon the request of any member of any export control advisory committee appointed under subsection (a), the Secretary may, if the Secretary determines it to be appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(d) CHAIRPERSON.—Each export control advisory committee appointed under subsection (a) shall elect a chairperson, and shall meet at least every 3 months at the call of the chairperson, unless the chairperson determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this section. Each such committee shall be terminated after a period of 2 years, unless extended by the Secretary for additional periods of 2 years each. The Secretary shall consult with each such committee on such termination or extension of that committee.

(e) ACCESS TO INFORMATION.—To facilitate the work of the export control advisory committees appointed under subsection (a), the Secretary, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the items or policies for which that committee furnishes advice. Information provided by the export control advisory committees shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Secretary determines that the withholding thereof is contrary to the national interest.

SEC. 106. PROHIBITION ON CHARGING FEES.

No fee may be charged in connection with the submission or processing of an application for an export license under this Act.

TITLE II—NATIONAL SECURITY EXPORT CONTROLS

Subtitle A—Authority and Procedures

SEC. 201. AUTHORITY FOR NATIONAL SECURITY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, or other authorization for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The President may also require recordkeeping and reporting with respect to the export of such item.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of Defense, the intelligence agencies, and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of national security export controls are the following:

(1) To restrict the export of items that would contribute to the military potential of countries so as to prove detrimental to the national security of the United States or its allies.

(2) To stem the proliferation of weapons of mass destruction, and the means to deliver them, and other significant military capabilities by—

(A) leading international efforts to control the proliferation of chemical and biological weapons, nuclear explosive devices, missile delivery systems, key-enabling technologies, and other significant military capabilities;

(B) controlling involvement of United States persons in, and contributions by United States persons to, foreign programs intended to develop weapons of mass destruction, missiles, and other significant military capabilities, and the means to design, test, develop, produce, stockpile, or use them; and

(C) implementing international treaties or other agreements or arrangements concerning controls on exports of designated items, reports on the production, processing, consumption, and exports and imports of such items, and compliance with verification programs.

(3) To deter acts of international terrorism.

(c) END USE AND END USER CONTROLS.—Notwithstanding any other provision of this title, controls may be imposed, based on the end use or end user, on the export of any item, that could materially contribute to the proliferation of weapons of mass destruction or the means to deliver them.

SEC. 202. NATIONAL SECURITY CONTROL LIST.

(a) ESTABLISHMENT OF LIST.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a National Security Control List as part of the Control List.

(2) CONTENTS.—The National Security Control List shall be composed of a list of items the export of which is controlled for national security purposes under this title.

(3) IDENTIFICATION OF ITEMS FOR NATIONAL SECURITY CONTROL LIST.—The Secretary, with the concurrence of the Secretary of Defense and in consultation with the head of any other department or agency of the United States that the Secretary considers appropriate, shall identify the items to be included on the National Security Control List.

(b) RISK ASSESSMENT.—

(1) REQUIREMENT.—The Secretary shall, in establishing and maintaining the National Security Control List, balance the national security risks of not controlling the export of an item against the economic costs of controlling the item, taking into consideration the risk factors set forth in paragraph (2).

(2) RISK FACTORS.—The risk factors referred to in paragraph (1), with respect to each item, are as follows:

(A) The characteristics of the item.

(B) The threat, if any, to the United States or the national security interest of the United States from the misuse or diversion of such item.

(C) The controllability of the item.

(D) Any other risk factor the Secretary deems appropriate to consider.

SEC. 203. COUNTRY TIERS.

(a) IN GENERAL.—

(1) ESTABLISHMENT AND ASSIGNMENT.—In administering export controls for national security purposes under this title, the President shall, not later than 120 days after the date of enactment of this Act—

(A) establish and maintain a country tiering system in accordance with subsection (b); and

(B) based on the assessments required under subsection (c), assign each country to a tier for each item or group of items the export of which is controlled for national security purposes under this title.

(2) CONSULTATION.—The establishment and assignment of country tiers under this section shall be made after consultation with the Secretary, the Secretary of Defense, the Secretary of State, the intelligence agencies, and such other departments and agencies as the President considers appropriate.

(3) REDETERMINATION AND REVIEW OF ASSIGNMENTS.—The President may redetermine the assignment of a country to a particular tier at any time and shall review and, as the President considers appropriate, reassign country tiers on an on-going basis.

(4) EFFECTIVE DATE OF TIER ASSIGNMENT.—An assignment of a country to a particular tier shall take effect on the date on which notice of the assignment is published in the Federal Register.

(b) TIERS.—

(1) IN GENERAL.—The President shall establish a country tiering system consisting of 5 tiers for purposes of this section, ranging from tier 1 through tier 5.

(2) RANGE.—Countries that represent the lowest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 1. Countries that represent the highest risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 5.

(3) OTHER COUNTRIES.—Countries that fall between the lowest and highest risk to the national security interest of the United States with respect to the risk of diversion or misuse of an item on the National Security Control List shall be assigned to tier 2, 3, or 4, respectively, based on the assessments required under subsection (c).

(c) ASSESSMENTS.—The President shall make an assessment of each country in assigning a country tier taking into consideration the following risk factors:

(1) The present and potential relationship of the country with the United States.

(2) The present and potential relationship of the country with countries friendly to the United States and with countries hostile to the United States.

(3) The country's capabilities regarding chemical, biological, and nuclear weapons and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(4) The country's position regarding missile systems and the country's membership in, and level of compliance with, relevant multilateral export control regimes.

(5) The country's other military capabilities and the potential threat posed by the country to the United States or its allies.

(6) The effectiveness of the country's export control system.

(7) The level of the country's cooperation with United States export control enforcement and other efforts.

(8) The risk of export diversion by the country to a higher tier country.

(9) The designation of the country as a country supporting international terrorism under section 310.

SEC. 204. INCORPORATED PARTS AND COMPONENTS.

(a) EXPORT OF ITEMS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Controls may not be imposed under this title or any other provision of law on an item solely because the item contains parts or components subject to export controls under this title, if the parts or components—

(1) are essential to the functioning of the item,

(2) are customarily included in sales of the item in countries other than controlled countries, and

(3) comprise 25 percent or less of the total value of the item,

unless the item itself, if exported, would by virtue of the functional characteristics of the item as a whole make a significant contribution to the military or proliferation potential of a controlled country or end user which would prove detrimental to the national security of the United States.

(b) REEXPORTS OF FOREIGN-MADE ITEMS INCORPORATING UNITED STATES CONTROLLED CONTENT.—

(1) IN GENERAL.—No authority or permission may be required under this title to reexport to a country (other than a country designated as a country supporting international terrorism pursuant to section 310) an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 25 percent or less of the total value of the item.

(2) REEXPORT TO CERTAIN TERRORIST COUNTRIES.—No authority or permission may be required under this title to reexport to a country designated as a country supporting international terrorism pursuant to section 310 an item that is produced in a country other than the United States and incorporates parts or components that are subject to the jurisdiction of the United States, if the value of the controlled United States content of the item produced in such other country is 10 percent or less of the total value of the item.

(3) DEFINITION OF CONTROLLED UNITED STATES CONTENT.—For purposes of this paragraph, the term ''controlled United States content'' of an item means those parts or components that—

(A) are subject to the jurisdiction of the United States;

(B) are incorporated into the item; and

(C) would, at the time of the reexport, require a license under this title if exported from the United States to a country to which the item is to be reexported.

SEC. 205. PETITION PROCESS FOR MODIFYING EXPORT STATUS.

(a) ESTABLISHMENT.—The Secretary shall establish a process for interested persons to petition the Secretary to change the status of an item on the National Security Control List.

(b) EVALUATIONS AND DETERMINATIONS.—Evaluations and determinations with respect to a petition filed pursuant to this section shall be made in accordance with the procedures set forth in section 202.

Subtitle B—Foreign Availability and Mass-Market Status

SEC. 211. DETERMINATION OF FOREIGN AVAILABILITY AND MASS-MARKET STATUS.

(a) IN GENERAL.—The Secretary shall—

(1) on a continuing basis,

(2) upon a request from the Office of Technology Evaluation, or

(3) upon receipt of a petition filed by an interested party,

review and determine the foreign availability and the mass-market status of any item the export of which is controlled under this title.

(b) PETITION AND CONSULTATION.—The Secretary shall establish a process for an interested party to petition the Secretary for a determination that an item has a foreign availability or mass-market status. In evaluating and making a determination with respect to a petition filed under this section, the Secretary shall consult with the Secretary of Defense and other appropriate Government agencies and with the Office of Technology Evaluation (established pursuant to section 214).

(c) RESULT OF DETERMINATION.—

(1) IN GENERAL.—In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that an item described in subsection (a) has—

(A) a foreign availability status, or

(B) a mass-market status,

the Secretary shall notify the President (and other appropriate departments and agencies) and publish the notice of the determination in the Federal Register. The Secretary's determination shall become final 30 days after the date the notice is published, the item shall be removed from the National Security Control List, and a license or other authorization shall not be required under this title or under section 1211 of the National Defense Authorization Act of Fiscal Year 1998 with respect to the item, unless the President makes a determination described in section 212 or 213 with respect to the item in that 30-day period.

(2) CONFORMING AMENDMENT.—Section 1211(d) of the National Defense Authorization Act for Fiscal Year 1998 is amended in the second sentence by striking ''180'' and inserting ''60''.

(d) CRITERIA FOR DETERMINING FOREIGN AVAILABILITY AND MASS-MARKET STATUS.—

(1) FOREIGN AVAILABILITY STATUS.—The Secretary shall determine that an item has foreign availability status under this subtitle, if the item (or a substantially identical or directly competitive item)—

(A) is available to controlled countries from sources outside the United States, including countries that participate with the United States in multilateral export controls;

(B) can be acquired at a price that is not excessive when compared to the price at which a controlled country could acquire such item from sources within the United States in the absence of export controls; and

(C) is available in sufficient quantity so that the requirement of a license or other authorization with respect to the export of such item is or would be ineffective.

(2) MASS-MARKET STATUS.—The Secretary shall determine that an item has mass-market status under this subtitle, if the item (or a substantially identical or directly competitive item)—

(A) is produced and is available for sale in a large volume to multiple potential purchasers;

(B) is widely distributed through normal commercial channels, such as retail stores, direct marketing catalogues, electronic commerce, and other channels;

(C) is conducive to shipment and delivery by generally accepted commercial means of transport; and

(D) may be used for its normal intended purpose without substantial and specialized service provided by the manufacturer, distributor, or other third party.

(3) SPECIAL RULES.—For purposes of this subtitle—

(A) SUBSTANTIALLY IDENTICAL ITEM.—The determination of whether an item in relation to another item is a substantially identical item shall include a fair assessment of end-uses, the properties, nature, and quality of the item.

(B) DIRECTLY COMPETITIVE ITEM.—

(i) IN GENERAL.—The determination of whether an item in relation to another item is a directly competitive item shall include a fair assessment of whether the item, although not substantially identical in its intrinsic or inherent characteristics, is substantially equivalent for commercial purposes and may be adapted for substantially the same uses.

(ii) EXCEPTION.—An item is not directly competitive with a controlled item if the item is substantially inferior to the controlled item with respect to characteristics that resulted in the export of the item being controlled.

SEC. 212. PRESIDENTIAL SET-ASIDE OF FOREIGN AVAILABILITY DETERMINATION.

(a) CRITERIA FOR PRESIDENTIAL SET-ASIDE.—

(1) POTENTIAL FOR ELIMINATION.—If the President determines that—

(A) the absence of export controls with respect to an item would prove detrimental to the national security of the United States, and

(B) there is a high probability that the foreign availability status of an item will be eliminated through multilateral negotiations within a reasonable period of time taking into account the characteristics of the item,

the President may set aside the Secretary's determination of foreign availability status with respect to the item.

(2) REPORT TO CONGRESS.—The President shall promptly—

(A) report any set-aside determination described in paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives; and

(B) publish the determination in the Federal Register.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—

(A) NEGOTIATIONS.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall

actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability.

(B) REPORT TO CONGRESS.—Not later than the date the President begins negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that the President has begun such negotiations and why the President believes it is important to the national security that export controls on the item involved be maintained.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination described in subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit to the committees of Congress referred to in paragraph (1)(B) a report on the results of the review, together with the status of multilateral negotiations to eliminate the foreign availability of the item.

(3) EXPIRATION OF PRESIDENTIAL SET-ASIDE.—A determination by the President described in subsection (a) shall cease to apply with respect to an item on the earlier of—

(A) the date that is 6 months after the date on which the determination is made under subsection (a), if the President has not commenced multilateral negotiations to eliminate the foreign availability of the item within that 6-month period;

(B) the date on which the negotiations described in paragraph (1) have terminated without achieving an agreement to eliminate foreign availability;

(C) the date on which the President determines that there is not a high probability of eliminating foreign availability of the item through negotiation; or

(D) the date that is 18 months after the date on which the determination described in subsection (a) is made if the President has been unable to achieve an agreement to eliminate foreign availability within that 18-month period.

(4) ACTION ON EXPIRATION OF PRESIDENTIAL SET-ASIDE.—Upon the expiration of a Presidential set-aside under paragraph (3) with respect to an item, the Secretary shall not require a license or other authorization to export the item.

SEC. 213. PRESIDENTIAL SET-ASIDE OF MASS-MARKET STATUS DETERMINATION.

(a) CRITERIA FOR SET-ASIDE.—If the President determines that—

(1) decontrolling or failing to control an item constitutes a serious threat to the national security of the United States, and

(2) export controls on the item would be likely to diminish the threat to, and advance the national security interests of, the United States,

the President may set aside the Secretary's determination of mass-market status with respect to the item.

(b) PRESIDENTIAL ACTION IN CASE OF SET-ASIDE.—

(1) IN GENERAL.—In any case in which export controls are maintained on an item because the President has made a determination under subsection (a), the President shall publish notice of the determination in the Federal Register not later than 30 days after the Secretary publishes notice of the Secretary's determination that an item has mass-market status.

(2) PERIODIC REVIEW OF DETERMINATION.—The President shall review a determination made under subsection (a) at least every 6 months. Promptly after each review is completed, the Secretary shall submit a report on the results of the review to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

SEC. 214. OFFICE OF TECHNOLOGY EVALUATION.

(a) IN GENERAL.—The Secretary shall establish in the Department of Commerce an Office of Technology Evaluation (in this subtitle referred to as the ''Office''), which shall be under the direction of the Secretary. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability and mass-market status under this Act.

(b) RESPONSIBILITIES.—The Office shall be responsible for—

(1) conducting foreign availability assessments to determine whether a controlled item is available to controlled countries and whether requiring a license, or denial of a license for the export of such item, is or would be ineffective;

(2) conducting mass-market assessments to determine whether a controlled item is available to controlled countries because of the mass-market status of the item;

(3) monitoring and evaluating worldwide technological developments in industry sectors critical to the national security interests of the United States to determine foreign availability and mass-market status of controlled items;

(4) monitoring and evaluating multilateral export control regimes and foreign government export control policies and practices that affect the national security interests of the United States;

(5) conducting assessments of United States industrial sectors critical to the United States defense industrial base and how the sectors are affected by technological developments, technology transfers, and foreign competition; and

(6) conducting assessments of the impact of United States export control policies on—

(A) United States industrial sectors critical to the national security interests of the United States; and

(B) the United States economy in general.

(c) REPORTS TO CONGRESS.—The Secretary shall make available to the Committee on International Relations of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate as part of the Secretary's annual report required under section 801 information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability and mass-market status, during the fiscal year preceding the report, including information on the training of personnel, and the use of Commercial Service Officers of the United States and Foreign Commercial Service to assist in making determinations. The information shall also include a description of representative determinations made under this Act during the preceding fiscal year that foreign availability or mass-market status did or did not exist (as the case may be), together with an explanation of the determinations.

(d) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, consistent with the protection of intelligence sources and methods, furnish information to the Office concerning foreign availability and the mass-market status of items subject to export controls under this Act.

TITLE III—FOREIGN POLICY EXPORT CONTROLS

SEC. 301. AUTHORITY FOR FOREIGN POLICY EXPORT CONTROLS.

(a) AUTHORITY.—

(1) IN GENERAL.—In order to carry out the purposes set forth in subsection (b), the President may, in accordance with the provisions of this Act, prohibit, curtail, or require a license, other authorization, recordkeeping, or reporting for the export of any item subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States.

(2) EXERCISE OF AUTHORITY.—The authority contained in this subsection shall be exercised by the Secretary, in consultation with the Secretary of State and such other departments and agencies as the Secretary considers appropriate.

(b) PURPOSES.—The purposes of foreign policy export controls are the following:

(1) To promote the foreign policy objectives of the United States, consistent with the purposes of this section and the provisions of this Act.

(2) To promote international peace, stability, and respect for fundamental human rights.

(3) To use export controls to deter and punish acts of international terrorism and to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism.

(c) EXCEPTION.—The President may not control under this title the export from a foreign country (whether or not by a United States person) of any item produced or originating in a foreign country that contains parts or components produced or originating in the United States.

(d) CONTRACT SANCTITY.—

(1) IN GENERAL.—The President may not prohibit the export of any item under this title if that item is to be exported—

(A) in performance of a binding contract, agreement, or other contractual commitment entered into before the date on which the President reports to Congress the President's intention to impose controls on that item under this title; or

(B) under a license or other authorization issued under this Act before the earlier of the date on which the control is initially imposed or the date on which the President reports to Congress the President's intention to impose controls under this title.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply in any case in which the President determines and certifies to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives that—

(A) there is a serious threat to a foreign policy interest of the United States;

(B) the prohibition of exports under each binding contract, agreement, commitment, license, or authorization will be directly instrumental in remedying the situation posing the serious threat; and

(C) the export controls will be in effect only as long as the serious threat exists.

SEC. 302. PROCEDURES FOR IMPOSING CONTROLS.

(a) NOTICE.—

(1) INTENT TO IMPOSE FOREIGN POLICY EXPORT CONTROL.—Except as provided in section 306, not later than 45 days before imposing or implementing an export control under this title, the President shall publish in the Federal Register—

(A) a notice of intent to do so; and

(B) provide for a period of not less than 30 days for any interested person to submit comments on the export control proposed under this title.

(2) PURPOSES OF NOTICE.—The purposes of the notice are—

(A) to provide an opportunity for the formulation of an effective export control policy under this title that advances United

States economic and foreign policy interests; and

(B) to provide an opportunity for negotiations to achieve the purposes set forth in section 301(b).

(b) NEGOTIATIONS.—During the 45-day period that begins on the date of notice described in subsection (a), the President may negotiate with the government of the foreign country against which the export control is proposed in order to resolve the reasons underlying the proposed export control.

(c) CONSULTATION.—

(1) REQUIREMENT.—The President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives regarding any export control proposed under this title and the efforts to achieve or increase multilateral cooperation on the issues or problems underlying the proposed export control.

(2) CLASSIFIED CONSULTATION.—The consultations described in paragraph (1) may be conducted on a classified basis if the Secretary considers it necessary.

SEC. 303. CRITERIA FOR FOREIGN POLICY EXPORT CONTROLS.

Each export control imposed by the President under this title shall—

(1) have clearly stated, specific, and compelling United States foreign policy objectives;

(2) have objective standards for evaluating the success or failure of the export control;

(3) include an assessment by the President that—

(A) the export control is likely to achieve such objectives and the expected time for achieving the objectives; and

(B) the achievement of the objectives of the export control outweighs any potential costs of the export control to other United States economic, foreign policy, humanitarian, or national security interests;

(4) be targeted narrowly; and

(5) seek to minimize any adverse impact on the humanitarian activities of United States and foreign nongovernmental organizations in the country subject to the export control.

SEC. 304. PRESIDENTIAL REPORT BEFORE IMPOSITION OF CONTROL.

(a) REQUIREMENT.—Before imposing an export control under this title, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report on the proposed export control. The report may be provided on a classified basis if the Secretary considers it necessary.

(b) CONTENT.—The report shall contain a description and assessment of each of the criteria described in section 303. In addition, the report shall contain a description and assessment of—

(1) any diplomatic and other steps that the United States has taken to accomplish the intended objective of the proposed export control;

(2) unilateral export controls imposed, and other measures taken, by other countries to achieve the intended objective of the proposed export control;

(3) the likelihood of multilateral adoption of comparable export controls;

(4) alternative measures to promote the same objectives and the likelihood of their potential success;

(5) any United States obligations under international trade agreements, treaties, or other international arrangements, with which the proposed export control may conflict;

(6) the likelihood that the proposed export control could lead to retaliation against United States interests;

(7) the likely economic impact of the proposed export control on the United States economy, United States international trade and investment, and United States agricultural interests, commercial interests, and employment; and

(8) a conclusion that the probable achievement of the objectives of the proposed export control outweighs any likely costs to United States economic, foreign policy, humanitarian, or national security interests, including any potential harm to the United States agricultural and business firms and to the international reputation of the United States as a reliable supplier of goods, services, or technology.

SEC. 305. IMPOSITION OF CONTROLS.

The President may impose an export control under this title after the submission of the report required under section 304 and publication in the Federal Register of a notice of the imposition of the export control .

SEC. 306. DEFERRAL AUTHORITY.

(a) AUTHORITY.—The President may defer compliance with any requirement contained in section 302(a), 304, or 305 in the case of a proposed export control if—

(1) the President determines that a deferral of compliance with the requirement is in the national interest of the United States; and

(2) the requirement is satisfied not later than 60 days after the date on which the export control is imposed under this title.

(b) TERMINATION OF CONTROL.—An export control with respect to which a deferral has been made under subsection (a) shall terminate 60 days after the date the export control is imposed unless all requirements have been satisfied before the expiration of the 60-day period.

SEC. 307. REVIEW, RENEWAL, AND TERMINATION.

(a) RENEWAL AND TERMINATION.—

(1) IN GENERAL.—Any export control imposed under this title shall terminate on March 31 of each renewal year unless the President renews the export control on or before such date. For purposes of this section, the term ''renewal year'' means 2002 and every 2 years thereafter.

(2) EXCEPTION.—This section shall not apply to an export control imposed under this title that—

(A) is required by law;

(B) is targeted against any country designated as a country supporting international terrorism pursuant to section 310; or

(C) has been in effect for less than 1 year as of February 1 of a renewal year.

(b) REVIEW.—

(1) IN GENERAL.—Not later than February 1 of each renewal year, the President shall review all export controls in effect under this title.

(2) CONSULTATION.—

(A) REQUIREMENT.—Before completing a review under paragraph (1), the President shall consult with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representative regarding each export control that is being reviewed.

(B) CLASSIFIED CONSULTATION.—The consultations may be conducted on a classified basis if the Secretary considers it necessary.

(3) PUBLIC COMMENT.—In conducting the review of each export control under paragraph (1), the President shall provide a period of not less than 30 days for any interested person to submit comments on renewal of the export control. The President shall publish notice of the opportunity for public comment in the Federal Register not less than 45 days before the review is required to be completed.

(c) REPORT TO CONGRESS.—

(1) REQUIREMENT.—Before renewing an export control imposed under this title, the President shall submit to the committees of Congress referred to in subsection (b)(2)(A) a report on each export control that the President intends to renew.

(2) FORM AND CONTENT OF REPORT.—The report may be provided on a classified basis if the Secretary considers it necessary. Each report shall contain the following:

(A) A clearly stated explanation of the specific and compelling United States foreign policy objective that the existing export control was intended to achieve.

(B) An assessment of—

(i) the extent to the which the existing export control achieved its objectives before renewal based on the objective criteria established for evaluating the export control; and

(ii) the reasons why the existing export control has failed to fully achieve its objectives and, if renewed, how the export control will achieve that objective before the next renewal year.

(C) An updated description and assessment of—

(i) each of the criteria described in section 303, and

(ii) each matter required to be reported under section 304(b)(1) through (8).

(3) RENEWAL OF EXPORT CONTROL.—The President may renew an export control under this title after submission of the report described in paragraph (2) and publication of notice of renewal in the Federal Register.

SEC. 308. TERMINATION OF CONTROLS UNDER THIS TITLE.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President—

(1) shall terminate any export control imposed under this title if the President determines that the control has substantially achieved the objective for which it was imposed; and

(2) may terminate any export control imposed under this title that is not required by law at any time.

(b) EXCEPTION.—Paragraphs (1) and (2) of subsection (a) do not apply to any export control imposed under this title that is targeted against any country designated as a country supporting international terrorism pursuant to section 310.

(c) EFFECTIVE DATE OF TERMINATION.—The termination of an export control pursuant to this section shall take effect on the date notice of the termination is published in the Federal Register.

SEC. 309. COMPLIANCE WITH INTERNATIONAL OBLIGATIONS.

Notwithstanding any other provision of this Act setting forth limitations on authority to control exports and except as provided in section 304, the President may impose controls on exports to a particular country or countries in order to fulfill obligations of the United States under resolutions of the United Nations and under treaties, or other international agreements and arrangements, to which the United States is a party.

SEC. 310. DESIGNATION OF COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.

(a) LICENSE REQUIRED.—A license shall be required for the export of an item to a country if the Secretary of State has determined that—

(1) the government of such country has repeatedly provided support for acts of international terrorism; and

(2) the export of the item could make a significant contribution to the military potential of such country, including its military logistics capability, or could enhance the ability of such country to support acts of international terrorism.

(b) NOTIFICATION.—The Secretary and the Secretary of State shall notify the Committee on International Relations of the

House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate at least 30 days before issuing any license required by subsection (a).

(c) DETERMINATIONS REGARDING REPEATED SUPPORT.—Each determination of the Secretary of State under subsection (a)(1), including each determination in effect on the date of the enactment of the Antiterrorism and Arms Export Amendments Act of 1989, shall be published in the Federal Register.

(d) LIMITATIONS ON RESCINDING DETERMINATION.—A determination made by the Secretary of State under subsection (a)(1) may not be rescinded unless the President submits to the Speaker of the House of Representatives and the Chairman of the Committee on Banking, Housing, and Urban Affairs and the Chairman of the Committee on Foreign Relations of the Senate—

(1) before the proposed rescission would take effect, a report certifying that—

(A) there has been a fundamental change in the leadership and policies of the government of the country concerned;

(B) that government is not supporting acts of international terrorism; and

(C) that government has provided assurances that it will not support acts of international terrorism in the future; or

(2) at least 45 days before the proposed rescission would take effect, a report justifying the rescission and certifying that—

(A) the government concerned has not provided any support for international terrorism during the preceding 6-month period; and

(B) the government concerned has provided assurances that it will not support acts of international terrorism in the future.

(e) INFORMATION TO BE INCLUDED IN NOTIFICATION.—The Secretary and the Secretary of State shall include in the notification required by subsection (b)—

(1) a detailed description of the item to be offered, including a brief description of the capabilities of any item for which a license to export is sought;

(2) the reasons why the foreign country or international organization to which the export or transfer is proposed to be made needs the item which is the subject of such export or transfer and a description of the manner in which such country or organization intends to use the item;

(3) the reasons why the proposed export or transfer is in the national interest of the United States;

(4) an analysis of the impact of the proposed export or transfer on the military capabilities of the foreign country or international organization to which such export or transfer would be made;

(5) an analysis of the manner in which the proposed export would affect the relative military strengths of countries in the region to which the item which is the subject of such export would be delivered and whether other countries in the region have comparable kinds and amounts of the item; and

(6) an analysis of the impact of the proposed export or transfer on the United States relations with the countries in the region to which the item which is the subject of such export would be delivered.

TITLE IV—EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES

SEC. 401. EXEMPTION FOR AGRICULTURAL COMMODITIES, MEDICINE, AND MEDICAL SUPPLIES.

Notwithstanding any other provision of law, the export controls imposed on items under title III shall not apply to agricultural commodities, medicine, and medical supplies.

SEC. 402. TERMINATION OF EXPORT CONTROLS REQUIRED BY LAW.

Notwithstanding any other provision of law, the President shall terminate any export control mandated by law on agricultural commodities, medicine, and medical supplies upon the date of enactment of this Act except for a control that is specifically reimposed by law.

SEC. 403. EXCLUSIONS.

Sections 401 and 402 do not apply to the following:

(1) The export of agricultural commodities, medicine, and medical supplies that are subject to national security export controls under title II.

(2) The export of agricultural commodities, medicine, and medical supplies to a country against which an embargo is in effect under the Trading With the Enemy Act.

TITLE V—PROCEDURES FOR EXPORT LICENSES AND INTERAGENCY DISPUTE RESOLUTION

SEC. 501. EXPORT LICENSE PROCEDURES.

(a) RESPONSIBILITY OF THE SECRETARY.—

(1) IN GENERAL.—All applications for a license or other authorization to export a controlled item shall be filed in such manner and include such information as the Secretary may, by regulation, prescribe.

(2) PROCEDURES.—In guidance and regulations that implement this section, the Secretary shall describe the procedures required by this section, the responsibilities of the Secretary and of other departments and agencies in reviewing applications, the rights of the applicant, and other relevant matters affecting the review of license applications.

(3) CALCULATION OF PROCESSING TIMES.—In calculating the processing times set forth in this title, the Secretary shall use calendar days, except that if the final day for a required action falls on a weekend or holiday, that action shall be taken no later than the following business day.

(4) CRITERIA FOR EVALUATING APPLICATIONS.—In determining whether to grant an application to export a controlled item under this Act, the following criteria shall be considered:

(A) The characteristics of the controlled item.

(B) The threat to the United States or the national security interests of the United States from the misuse of the item.

(C) The risk of export diversion or misuse by—

(i) the exporter;

(ii) the method of export;

(iii) the end-user;

(iv) the country where the end-user is located; and

(v) the end-use.

(D) Risk mitigating factors including, but not limited to—

(i) changing the characteristics of the controlled item;

(ii) after-market monitoring by the exporter; and

(iii) post-shipment verification.

(b) INITIAL SCREENING.—

(1) UPON RECEIPT OF APPLICATION.—Upon receipt of an export license application, the Secretary shall enter and maintain in the records of the Department information regarding the receipt and status of the application.

(2) INITIAL PROCEDURES.—

(A) IN GENERAL.—Not later than 9 days after receiving any license application, the Secretary shall—

(i) contact the applicant if the application is improperly completed or if additional information is required, and hold the application for a reasonable time while the applicant provides the necessary corrections or information, and such time shall not be included in calculating the time periods prescribed in this title;

(ii) refer the application, through the use of a common data base or other means, and all information submitted by the applicant, and all necessary recommendations and analyses by the Secretary to the Department of Defense and other departments and agencies as the Secretary considers appropriate;

(iii) ensure that the classification stated on the application for the export items is correct; and

(iv) return the application if a license is not required.

(B) REFERRAL NOT REQUIRED.—In the event that the head of a department or agency determines that certain types of applications need not be referred to the department or agency, such department or agency head shall notify the Secretary of the specific types of such applications that the department or agency does not wish to review.

(3) WITHDRAWAL OF APPLICATION.—An applicant may, by written notice to the Secretary, withdraw an application at any time before final action.

(c) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—

(1) REFERRAL TO OTHER AGENCIES.—The Secretary shall promptly refer a license application to the departments and agencies under subsection (b) to make recommendations and provide information to the Secretary.

(2) RESPONSIBILITY OF REFERRAL DEPARTMENTS AND AGENCIES.—The Department of Defense and other reviewing departments and agencies shall take all necessary actions in a prompt and responsible manner on an application. Each department or agency reviewing an application under this section shall establish and maintain records properly identifying and monitoring the status of the matter referred to the department or agency.

(3) ADDITIONAL INFORMATION REQUESTS.—Each department or agency to which a license application is referred shall specify to the Secretary any information that is not in the application that would be required for the department or agency to make a determination with respect to the application, and the Secretary shall promptly request such information from the applicant. The time that may elapse between the date the information is requested by that department or agency and the date the information is received by that department or agency shall not be included in calculating the time periods prescribed in this title.

(4) TIME PERIOD FOR ACTION BY REFERRAL DEPARTMENTS AND AGENCIES.—Within 25 days after the Secretary refers an application under this section, each department or agency to which an application has been referred shall provide the Secretary with a recommendation either to approve the license or to deny the license. A recommendation that the Secretary deny a license shall include a statement of reasons for the recommendation that are consistent with the provisions of this title, and shall cite both the specific statutory and regulatory basis for the recommendation. A department or agency that fails to provide a recommendation in accordance with this paragraph within that 25-day period shall be deemed to have no objection to the decision of the Secretary on the application.

(d) ACTION BY THE SECRETARY.—Not later than 25 days after the date the application is referred, the Secretary shall—

(1) if there is agreement among the referral departments and agencies to issue or deny the license—

(A) issue the license and ensure all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the license; or

(2) if there is no agreement among the referral departments and agencies, notify the applicant that the application is subject to the interagency dispute resolution process.

(e) CONSEQUENCES OF APPLICATION DENIAL.—

(1) IN GENERAL.—If a determination is made to deny a license, the applicant shall be informed in writing by the Secretary of—

(A) the determination;

(B) the specific statutory and regulatory bases for the proposed denial;

(C) what, if any, modifications to, or restrictions on, the items for which the license was sought would allow such export to be compatible with export controls imposed under this Act, and which officer or employee of the Department would be in a position to discuss modifications or restrictions with the applicant and the specific statutory and regulatory bases for imposing such modifications or restrictions;

(D) to the extent consistent with the national security and foreign policy interests of the United States, the specific considerations that led to the determination to deny the application; and

(E) the availability of appeal procedures.

(2) PERIOD FOR APPLICANT TO RESPOND.—The applicant shall have 20 days from the date of the notice of intent to deny the application to respond in a manner that addresses and corrects the reasons for the denial. If the applicant does not adequately address or correct the reasons for denial or does not respond, the license shall be denied. If the applicant does address or correct the reasons for denial, the application shall receive consideration in a timely manner.

(f) APPEALS AND OTHER ACTIONS BY APPLICANT.—

(1) IN GENERAL.—The Secretary shall establish appropriate procedures for an applicant to appeal to the Secretary the denial of an application or other administrative action under this Act. In any case in which the Secretary intends to reverse the decision with respect to the application, the appeal under this subsection shall be handled in accordance with the interagency dispute resolution process.

(2) ENFORCEMENT OF TIME LIMITS.—

(A) IN GENERAL.—In any case in which an action prescribed in this section is not taken on an application within the time period established by this section (except in the case of a time period extended under subsection (g) of which the applicant is notified), the applicant may file a petition with the Secretary requesting compliance with the requirements of this section. When such petition is filed, the Secretary shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(B) BRINGING COURT ACTION.—If, within 20 days after a petition is filed under subparagraph (A), the processing of the application has not been brought into conformity with the requirements of this section, or the processing of the application has been brought into conformity with such requirements but the Secretary has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for an order requiring compliance with the time periods required by this section.

(g) EXCEPTIONS FROM REQUIRED TIME PERIODS.—The following actions related to processing an application shall not be included in calculating the time periods prescribed in this section:

(1) AGREEMENT OF THE APPLICANT.—Delays upon which the Secretary and the applicant mutually agree.

(2) PRELICENSE CHECKS.—A prelicense check (for a period not to exceed 60 days) that may be required to establish the identity and reliability of the recipient of items controlled under this Act, if—

(A) the need for the prelicense check is determined by the Secretary or by another department or agency in any case in which the request for the prelicense check is made by such department or agency;

(B) the request for the prelicense check is initiated by the Secretary within 5 days after the determination that the prelicense check is required; and

(C) the analysis of the result of the prelicense check is completed by the Secretary within 5 days.

(3) REQUESTS FOR GOVERNMENT-TO-GOVERNMENT ASSURANCES.—Any request by the Secretary or another department or agency for government-to-government assurances of suitable end-uses of items approved for export, when failure to obtain such assurances would result in rejection of the application, if—

(A) the request for such assurances is sent to the Secretary of State within 5 days after the determination that the assurances are required;

(B) the Secretary of State initiates the request of the relevant government within 10 days thereafter; and

(C) the license is issued within 5 days after the Secretary receives the requested assurances.

(4) EXCEPTION.—Whenever a prelicense check described in paragraph (2) or assurances described in paragraph (3) are not requested within the time periods set forth therein, then the time expended for such prelicense check or assurances shall be included in calculating the time periods established by this section.

(5) MULTILATERAL REVIEW.—Multilateral review of a license application to the extent that such multilateral review is required by a relevant multilateral regime.

(6) CONGRESSIONAL NOTIFICATION.—Such time as is required for mandatory congressional notifications under this Act.

(7) CONSULTATIONS.—Consultation with other governments, if such consultation is provided for by a relevant multilateral regime as a precondition for approving a license.

(h) CLASSIFICATION REQUESTS AND OTHER INQUIRIES.—

(1) CLASSIFICATION REQUESTS.—In any case in which the Secretary receives a written request asking for the proper classification of an item on the Control List or the applicability of licensing requirements under this title, the Secretary shall promptly notify the Secretary of Defense and other departments and agencies the Secretary considers appropriate. The Secretary shall, within 14 days after receiving the request, inform the person making the request of the proper classification.

(2) OTHER INQUIRIES.—In any case in which the Secretary receives a written request for information under this Act, the Secretary shall, within 30 days after receiving the request, reply with that information to the person making the request.

SEC. 502. INTERAGENCY DISPUTE RESOLUTION PROCESS.

(a) IN GENERAL.—All license applications on which agreement cannot be reached shall be referred to the interagency dispute resolution process for decision.

(b) INTERAGENCY DISPUTE RESOLUTION PROCESS.—

(1) INITIAL RESOLUTION.—The Secretary shall establish, select the chairperson of, and determine procedures for an interagency committee to review initially all license applications described in subsection (a) with respect to which the Secretary and any of the referral departments and agencies are not in agreement. The chairperson shall consider the positions of all the referral departments and agencies (which shall be included in the minutes described subsection (c)(2)) and make a decision on the license application, including appropriate revisions or conditions thereto.

(2) FURTHER RESOLUTION.—The President shall establish additional levels for review or appeal of any matter that cannot be resolved pursuant to the process described in paragraph (1). Each such review shall—

(A) provide for decision-making based on the majority vote of the participating departments and agencies;

(B) provide that a department or agency that fails to take a timely position, citing the specific statutory and regulatory bases for a denial, shall be deemed to have no objection to the pending decision;

(C) provide that any decision of an interagency committee established under paragraph (1) or interagency dispute resolution process established under this paragraph may be escalated to the next higher level of review at the request of any representative of a department or agency that participated in the interagency committee or dispute resolution process that made the decision; and

(D) ensure that matters are resolved or referred to the President not later than 90 days after the date the completed license application is referred by the Secretary.

(c) FINAL ACTION.—

(1) IN GENERAL.—Once a final decision is made under subsection (b), the Secretary shall promptly—

(A) issue the license and ensure that all appropriate personnel in the Department (including the Office of Export Enforcement) are notified of all approved license applications; or

(B) notify the applicant of the intention to deny the application.

(2) MINUTES.—The interagency committee and each level of the interagency dispute resolution process shall keep reasonably detailed minutes of all meetings. On each matter before the interagency committee or before any other level of the interagency dispute resolution process in which members disagree, each member shall clearly state the reasons for the member's position and the reasons shall be entered in the minutes.

TITLE VI—INTERNATIONAL ARRANGEMENTS; FOREIGN BOYCOTTS; SANCTIONS; AND ENFORCEMENT

SEC. 601. INTERNATIONAL ARRANGEMENTS.

(a) MULTILATERAL EXPORT CONTROL REGIMES.—

(1) POLICY.—It is the policy of the United States to seek multilateral arrangements that support the national security objectives of the United States (as described in title II) and that establish fairer and more predictable competitive opportunities for United States exporters.

(2) PARTICIPATION IN EXISTING REGIMES.—Congress encourages the United States to continue its active participation in and to strengthen existing multilateral export control regimes.

(3) PARTICIPATION IN NEW REGIMES.—It is the policy of the United States to participate in additional multilateral export control regimes if such participation would serve the national security interests of the United States.

(b) ANNUAL REPORT ON MULTILATERAL EXPORT CONTROL REGIMES.—Not later than February 1 of each year, the President shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives a report evaluating the effectiveness of each multilateral export control regime, including an assessment of the steps undertaken pursuant to subsections (c) and (d). The report, or any part of this report, may be submitted in classified form to the extent the Secretary considers necessary.

(c) STANDARDS FOR MULTILATERAL EXPORT CONTROL REGIMES.—The President shall take steps to establish the following features in any multilateral export control regime in which the United States is participating or may participate:

(1) FULL MEMBERSHIP.—All supplier countries are members of the regime, and the policies and activities of the members are consistent with the objectives and membership criteria of the multilateral export control regime.

(2) EFFECTIVE ENFORCEMENT AND COMPLIANCE.—The regime promotes enforcement and compliance with the regime's rules and guidelines.

(3) PUBLIC UNDERSTANDING.—The regime makes an effort to enhance public understanding of the purpose and procedures of the multilateral export control regime.

(4) EFFECTIVE IMPLEMENTATION PROCEDURES.—The multilateral export control regime has procedures for the implementation of its rules and guidelines through uniform and consistent interpretations of its export controls.

(5) ENHANCED COOPERATION WITH REGIME NONMEMBERS.—There is agreement among the members of the multilateral export control regime to—

(A) cooperate with governments outside the regime to restrict the export of items controlled by such regime; and

(B) establish an ongoing mechanism in the regime to coordinate planning and implementation of export control measures related to such cooperation.

(6) PERIODIC HIGH-LEVEL MEETINGS.—There are regular periodic meetings of high-level representatives of the governments of members of the multilateral export control regime for the purpose of coordinating export control policies and issuing policy guidance to members of the regime.

(7) COMMON LIST OF CONTROLLED ITEMS.—There is agreement on a common list of items controlled by the multilateral export control regime.

(8) REGULAR UPDATES OF COMMON LIST.—There is a procedure for removing items from the list of controlled items when the control of such items no longer serves the objectives of the members of the multilateral export control regime.

(9) TREATMENT OF CERTAIN COUNTRIES.—There is agreement to prevent the export or diversion of the most sensitive items to countries whose activities are threatening to the national security of the United States or its allies.

(10) HARMONIZATION OF LICENSE APPROVAL PROCEDURES.—There is harmonization among the members of the regime of their national export license approval procedures and practices.

(11) UNDERCUTTING.—There is a limit with respect to when members of a multilateral export control regime—

(A) grant export licenses for any item that is substantially identical to or directly competitive with an item controlled pursuant to the regime, where the United States has denied an export license for such item, or

(B) approve exports to a particular end user to which the United States has denied export license for a similar item.

(d) STANDARDS FOR NATIONAL EXPORT CONTROL SYSTEMS.—The President shall take steps to attain the cooperation of members of each regime in implementing effective national export control systems containing the following features:

(1) EXPORT CONTROL LAW.—Enforcement authority, civil and criminal penalties, and statutes of limitations are sufficient to deter potential violations and punish violators under the member's export control law.

(2) LICENSE APPROVAL PROCESS.—The system for evaluating export license applications includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end users.

(3) ENFORCEMENT.—The enforcement mechanism provides authority for trained enforcement officers to investigate and prevent illegal exports.

(4) DOCUMENTATION.—There is a system of export control documentation and verification with respect to controlled items.

(5) INFORMATION.—There are procedures for the coordination and exchange of information concerning licensing, end users, and enforcement with other members of the multilateral export control regime.

(6) RESOURCES.—The member has devoted adequate resources to administer effectively the authorities, systems, mechanisms, and procedures described in paragraphs (1) through (5).

(e) OBJECTIVES REGARDING MULTILATERAL EXPORT CONTROL REGIMES.—The President shall seek to achieve the following objectives with regard to multilateral export control regimes:

(1) STRENGTHEN EXISTING REGIMES.—Strengthen existing multilateral export control regimes—

(A) by creating a requirement to share information about export license applications among members before a member approves an export license; and

(B) harmonizing national export license approval procedures and practices, including the elimination of undercutting.

(2) REVIEW AND UPDATE.—Review and update multilateral regime export control lists with other members, taking into account—

(A) national security concerns;

(B) the controllability of items; and

(C) the costs and benefits of controls.

(3) ENCOURAGE COMPLIANCE BY NONMEMBERS.—Encourage nonmembers of the multilateral export control regime—

(A) to strengthen their national export control regimes and improve enforcement;

(B) to adhere to the appropriate multilateral export control regime; and

(C) not to undermine an existing multilateral export control regime by exporting controlled items in a manner inconsistent with the guidelines of the regime.

(f) TRANSPARENCY OF MULTILATERAL EXPORT CONTROL REGIMES.—

(1) PUBLICATION OF INFORMATION ON EACH EXISTING REGIME.—Not later than 120 days after the date of enactment of this Act, the Secretary shall, for each multilateral export control regime (to the extent that it is not inconsistent with the arrangements of that regime or with the national interest), publish in the Federal Register the following information with respect to the regime:

(A) The purposes of the regime.

(B) The members of the regime.

(C) The export licensing policy of the regime.

(D) The items that are subject to export controls under the regime, together with all public notes, understandings, and other aspects of the agreement of the regime, and all changes thereto.

(E) Any countries, end uses, or end users that are subject to the export controls of the regime.

(F) Rules of interpretation.

(G) Major policy actions.

(H) The rules and procedures of the regime for establishing and modifying any matter described in subparagraphs (A) through (G) and for reviewing export license applications.

(2) NEW REGIMES.—Not later than 60 days after the United States joins or organizes a new multilateral export control regime, the Secretary shall, to the extent not inconsistent with arrangements under the regime or with the national interest, publish in the Federal Register the information described in subparagraphs (A) through (H) of paragraph (1) with respect to the regime.

(3) PUBLICATION OF CHANGES.—Not later than 60 days after a multilateral export control regime adopts any change in the information published under this subsection, the Secretary shall, to the extent not inconsistent with the arrangements under the regime or the national interest, publish such changes in the Federal Register.

(g) SUPPORT OF OTHER COUNTRIES' EXPORT CONTROL SYSTEMS.—The Secretary is encouraged to continue to—

(1) participate in training of, and provide training to, officials of other countries on the principles and procedures for implementing effective export controls; and

(2) participate in any such training provided by other departments and agencies of the United States.

SEC. 602. FOREIGN BOYCOTTS.

(a) PURPOSES.—The purposes of this section are as follows:

(1) To counteract restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person.

(2) To encourage and, in specified cases, require United States persons engaged in the export of items to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person.

(b) PROHIBITIONS AND EXCEPTIONS.—

(1) PROHIBITIONS.—In order to carry out the purposes set forth in subsection (a), the President shall issue regulations prohibiting any United States person, with respect to that person's activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply with, further, or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, or requirement of, or a request from or on behalf of the boycotting country (subject to the condition that the intent required to be associated with such an act in order to constitute a violation of the prohibition is not indicated solely by the mere absence of a business relationship with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person).

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminate against any United States person on the basis of the race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such person.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information (other than furnishing normal business information in a commercial context, as defined by the Secretary) about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person that is known or believed to be restricted from having any business relationship with or in the boycotting country.

(E) Furnishing information about whether any person is a member of, has made a contribution to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement the compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) EXCEPTIONS.—Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) compliance, or agreement to comply, with requirements—

(i) prohibiting the import of items from the boycotted country or items produced or provided, by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country; or

(ii) prohibiting the shipment of items to the boycotting country on a carrier of the boycotted country or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) compliance, or agreement to comply, with import and shipping document requirements with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment, or the name of the provider of other services, except that, for purposes of applying any exception under this subparagraph, no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) compliance, or agreement to comply, in the normal course of business with the unilateral and specific selection by a boycotting country, or a national or resident thereof, or carriers, insurers, suppliers of services to be performed within the boycotting country, or specific items which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) compliance, or agreement to comply, with export requirements of the boycotting country relating to shipment or transshipment of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual, or agreement by an individual to comply, with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country, or agreement by such a person to comply, with the laws of the country with respect to the person's activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of the foreign country governing imports into such country of trademarked, tradenamed, or similarly specifically identifiable products, or components of products for such person's own use, including the performance of contractual services within that country.

(3) LIMITATION ON EXCEPTIONS.—Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) ANTITRUST AND CIVIL RIGHTS LAWS NOT AFFECTED.—Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) EVASION.—This section applies to any transaction or activity undertaken by or through a United States person or any other person with intent to evade the provisions of this section or the regulations issued pursuant to this subsection. The regulations issued pursuant to this section shall expressly provide that the exceptions set forth in paragraph (2) do not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) that are otherwise prohibited, pursuant to the intent of such exceptions.

(c) ADDITIONAL REGULATIONS AND REPORTS.—

(1) REGULATIONS.—In addition to the regulations issued pursuant to subsection (b), regulations issued pursuant to title III shall implement the purposes set forth in subsection (a).

(2) REPORTS BY UNITED STATES PERSONS.—The regulations shall require that any United States person receiving a request to furnish information, enter into or implement an agreement, or take any other action referred to in subsection (a) shall report that request to the Secretary, together with any other information concerning the request that the Secretary determines appropriate. The person shall also submit to the Secretary a statement regarding whether the person intends to comply, and whether the person has complied, with the request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any item to which such report relates may be treated as confidential if the Secretary determines that disclosure of that information would place the United States person involved at a competitive disadvantage. The Secretary shall periodically transmit summaries of the information contained in the reports to the Secretary of State for such action as the Secretary of State, in consultation with the Secretary, considers appropriate to carry out the purposes set forth in subsection (a).

(d) PREEMPTION.—The provisions of this section and the regulations issued under this section shall preempt any law, rule, or regulation that—

(1) is a law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof; and

(2) pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

SEC. 603. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) VIOLATIONS BY AN INDIVIDUAL.—Any individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $1,000,000, whichever is greater, imprisoned for not more than 10 years, or both, for each violation, except that the term of imprisonment may be increased to life for multiple violations or aggravated circumstances.

(2) VIOLATIONS BY A PERSON OTHER THAN AN INDIVIDUAL.—Any person other than an individual who knowingly violates, conspires to violate, or attempts to violate any provision of this Act or any regulation, license, or order issued under this Act shall be fined up to 10 times the value of the exports involved or $10,000,000, whichever is greater, for each violation.

(b) FORFEITURE OF PROPERTY INTEREST AND PROCEEDS.—

(1) FORFEITURE.—Any person who is convicted under paragraph (1) or (2) of subsection (a) shall, in addition to any other penalty, forfeit to the United States—

(A) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible items that were the subject of the violation;

(B) any of that person's security or other interest in, claim against, or property or contractual rights of any kind in the tangible property that was used in the export or attempt to export that was the subject of the violation; and

(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

(2) PROCEDURES.—The procedures in any forfeiture under this subsection, and the duties and authority of the courts of the United States and the Attorney General with respect to any forfeiture action under this subsection, or with respect to any property that may be subject to forfeiture under this subsection, shall be governed by the provisions of chapter 46 of title 18, United States Code, to the same extent as property subject to forfeiture under that chapter.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—

(1) CIVIL PENALTIES.—The Secretary may impose a civil penalty of up to $1,000,000 for each violation of a provision of this Act or any regulation, license, or order issued under this Act. A civil penalty under this paragraph may be in addition to, or in lieu of, any other liability or penalty which may be imposed for such a violation.

(2) DENIAL OF EXPORT PRIVILEGES.—The Secretary may deny the export privileges of any person, including the suspension or revocation of the authority of such person to export or receive United States-origin items subject to this Act, for a violation of a provision of this Act or any regulation, license, or order issued under this Act.

(3) EXCLUSION FROM PRACTICE.—The Secretary may exclude any person acting as an attorney, accountant, consultant, freight forwarder, or in any other representative capacity from participating before the Department with respect to a license application or any other matter under this Act.

(d) PAYMENT OF CIVIL PENALTIES.—

(1) PAYMENT AS CONDITION OF FURTHER EXPORT PRIVILEGES.—The payment of a civil penalty imposed under subsection (c) may be made a condition for the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. The period for which the payment of a penalty may be made such a condition may not exceed 1 year after the date on which the payment is due.

(2) DEFERRAL OR SUSPENSION.—

(A) IN GENERAL.—The payment of a civil penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period no longer than any probation period (which may exceed 1 year) that may be imposed upon the person on whom the penalty is imposed.

(B) NO BAR TO COLLECTION OF PENALTY.—A deferral or suspension under subparagraph (A) shall not operate as a bar to the collection of the penalty concerned in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(3) TREATMENT OF PAYMENTS.—Any amount paid in satisfaction of a civil penalty imposed under subsection (c) shall be covered into the Treasury as miscellaneous receipts except as set forth in section 607(h).

(e) REFUNDS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, refund any civil penalty imposed under subsection (c) on the ground of a material error of fact or law in imposition of the penalty.

(B) LIMITATION.—A civil penalty may not be refunded under subparagraph (A) later than 2 years after payment of the penalty.

(2) PROHIBITION ON ACTIONS FOR REFUND.—Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any civil penalty referred to in paragraph (1) may be maintained in any court.

(f) EFFECT OF OTHER CONVICTIONS.—

(1) DENIAL OF EXPORT PRIVILEGES.—Any person convicted of a violation of—

(A) a provision of this Act or the Export Administration Act of 1979,

(B) a provision of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.),

(C) section 793, 794, or 798 of title 18, United States Code,

(D) section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)),

(E) section 38 of the Arms Export Control Act (22 U.S.C. 2778),

(F) section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16),

(G) any regulation, license, or order issued under any provision of law listed in subparagraph (A), (B), (C), (D), (E), or (F),

(H) section 371 or 1001 of title 18, United States Code, if in connection with the export of controlled items under this Act or any regulation, license, or order issued under the International Emergency Economic Powers Act, or the export of items controlled under the Arms Export Control Act,

(I) section 175 of title 18, United States Code,

(J) section 229, of title 18, United States Code,

(K) a provision of the Atomic Energy Act (42 U.S.C. 201 et seq.),

(L) section 831 of title 18, United States Code, or

(M) section 2332a of title 18, United States Code,

may, at the discretion of the Secretary, be denied export privileges under this Act for a period not to exceed 10 years from the date of the conviction. The Secretary may also revoke any export license under this Act in which such person had an interest at the time of the conviction.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility to a person convicted of any violation of a law set forth in paragraph (1) upon a showing of such relationship with the convicted person. The Secretary shall make such showing only after providing notice and opportunity for a hearing.

(g) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a proceeding in which a civil penalty or other administrative sanction (other than a temporary denial order) is sought under subsection (c) may not be instituted more than 5 years after the later of the date of the alleged violation or the date of discovery of the alleged violation.

(2) EXCEPTION.—

(A) TOLLING.—In any case in which a criminal indictment alleging a violation under subsection (a) is returned within the time limits prescribed by law for the institution of such action, the limitation under paragraph (1) for bringing a proceeding to impose a civil penalty or other administrative sanction under this section shall, upon the return of the criminal indictment, be tolled against all persons named as a defendant.

(B) DURATION.—The tolling of the limitation with respect to a defendant under subparagraph (A) as a result of a criminal indictment shall continue for a period of 6 months from the date on which the conviction of the defendant becomes final, the indictment against the defendant is dismissed, or the criminal action has concluded.

(h) VIOLATIONS DEFINED BY REGULATION.—Nothing in this section shall limit the authority of the Secretary to define by regulation violations under this Act.

(i) CONSTRUCTION.—Nothing in subsection (c), (d), (e), (f), or (g) limits—

(1) the availability of other administrative or judicial remedies with respect to a violation of a provision of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to any such violation; or

(3) the authority to compromise, remit, or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

SEC. 604. MULTILATERAL EXPORT CONTROL REGIME VIOLATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

(A) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to a multilateral export control regime; and

(B) such violation has substantially aided a country in—

(i) acquiring military significant capabilities or weapons, if the country is an actual or potential adversary of the United States;

(ii) acquiring nuclear weapons provided such country is other than the declared nuclear states of the People's Republic China, the Republic of France, the Russian Federation, the United Kingdom, and the United States;

(iii) acquiring biological or chemical weapons; or

(iv) acquiring missiles.

(2) NOTIFICATION OF CONGRESS.—The President shall notify Congress of each action taken under this section.

(b) APPLICABILITY AND FORMS OF SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

(1) A prohibition on contracting with, and the procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government.

(2) A prohibition on the importation into the United States of all items produced by a sanctioned person.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense items—

(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense items and no alternative supplier can be identified; or

(C) if the President determines that such items are essential to the national security under defense coproduction agreements;

(2) in any case in which such sanctions would violate United States international obligations including treaties, agreements, or understandings; or

(3) to—

(A) items provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies Congress of the intention to impose the sanctions;

(B) after-market service and replacement parts including upgrades;

(C) component parts, but not finished products, essential to United States products or productions; or

(D) information and technology.

(d) EXCLUSION.—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person; and

(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles set forth in section 601(b)(2).

(e) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—The President may, after consultation with the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed, if the President determines that—

(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of evidence available to the United States, itself violated the export control regulation involved, either directly or through a course of conduct;

(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in section 601(b)(2); and

(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements

in internal controls sufficient to detect and prevent violations of the multilateral export control regime.

SEC. 605. MISSILE PROLIFERATION CONTROL VIOLATIONS.

(a) VIOLATIONS BY UNITED STATES PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—If the President determines that a United States person knowingly—

(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, title II or III of this Act, or any regulations or orders issued under any such provisions,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a United States person under subparagraph (A) are the following:

(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 603.

(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to an item if the President certifies to Congress that—

(A) the item is essential to the national security of the United States; and

(B) such person is a sole source supplier of the item, the item is not available from any alternative reliable supplier, and the need for the item cannot be met in a timely manner by improved manufacturing processes or technological developments.

(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

(1) SANCTIONS.—

(A) IN GENERAL.—Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of enactment of this section, knowingly—

(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

(ii) conspires to or attempts to engage in such export, transfer, or trade, or

(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

(B) SANCTIONS DESCRIBED.—The sanctions which apply to a foreign person under subparagraph (A) are the following:

(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for the transfer to such foreign person of items the export of which is controlled under this Act.

(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

(5) WAIVER AND REPORT TO CONGRESS.—

(A) WAIVER.—In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

(B) REPORT TO CONGRESS.—In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

(A) the product or service is essential to the national security of the United States; and

(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production,

(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

(iv) information and technology essential to United States products or production.

(c) DEFINITIONS.—In this section:

(1) MISSILE.—The term ''missile'' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems.

(2) MISSILE TECHNOLOGY CONTROL REGIME; MTCR.—The term ''Missile Technology Control Regime'' or ''MTCR'' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto.

(3) MTCR ADHERENT.—The term ''MTCR adherent'' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR.

(4) MTCR ANNEX.—The term ''MTCR Annex'' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto.

(5) MISSILE EQUIPMENT OR TECHNOLOGY; MTCR EQUIPMENT OR TECHNOLOGY.—The terms ''missile equipment or technology'' and ''MTCR equipment or technology'' mean those items listed in category I or category II of the MTCR Annex.

(6) FOREIGN PERSON.—The term ''foreign person'' means any person other than a United States person.

(7) PERSON.—

(A) IN GENERAL.—The term ''person'' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental

entity operating as a business enterprise, and any successor of any such entity.

(B) IDENTIFICATION IN CERTAIN CASES.—In the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term ''person'' means—

(i) all activities of that government relating to the development or production of any missile equipment or technology; and

(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment.

(8) OTHERWISE ENGAGED IN THE TRADE OF.—The term ''otherwise engaged in the trade of'' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.

SEC. 606. CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION SANCTIONS.

(a) IMPOSITION OF SANCTIONS.—

(1) DETERMINATION BY THE PRESIDENT.—Except as provided in subsection (b)(2), the President shall impose both of the sanctions described in subsection (c) if the President determines that a foreign person, on or after the date of enactment of this section, has knowingly and materially contributed—

(A) through the export from the United States of any item that is subject to the jurisdiction of the United States under this Act, or

(B) through the export from any other country of any item that would be, if it were a United States item, subject to the jurisdiction of the United States under this Act,

to the efforts by any foreign country, project, or entity described in paragraph (2) to use, develop, produce, stockpile, or otherwise acquire chemical or biological weapons.

(2) COUNTRIES, PROJECTS, OR ENTITIES RECEIVING ASSISTANCE.—Paragraph (1) applies in the case of—

(A) any foreign country that the President determines has, at any time after the date of enactment of this Act—

(i) used chemical or biological weapons in violation of international law;

(ii) used lethal chemical or biological weapons against its own nationals; or

(iii) made substantial preparations to engage in the activities described in clause (i) or (ii);

(B) any foreign country whose government is determined for purposes of section 310 to be a government that has repeatedly provided support for acts of international terrorism; or

(C) any other foreign country, project, or entity designated by the President for purposes of this section.

(3) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person;

(C) any foreign person that is a parent or subsidiary of that foreign person if that parent or subsidiary knowingly assisted in the activities which were the basis of that determination; and

(D) any foreign person that is an affiliate of that foreign person if that affiliate knowingly assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(b) CONSULTATIONS WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for a period of up to 90 days. Following the consultations, the President shall impose sanctions unless the President determines and certifies to Congress that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay imposition of sanctions for an additional period of up to 90 days if the President determines and certifies to Congress that government is in the process of taking the actions described in the preceding sentence.

(3) REPORT TO CONGRESS.—The President shall report to Congress, not later than 90 days after making a determination under subsection (a)(1), on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (2) of this subsection, the following:

(A) PROCUREMENT SANCTION.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(3).

(B) IMPORT SANCTIONS.—The importation into the United States of products produced by any person described in subsection (a)(3) shall be prohibited.

(2) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that reliable information indicates that the foreign person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any foreign government, project, or entity in its efforts to acquire chemical or biological weapons capability as described in that subsection.

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to Congress that such waiver is important to the national security interests of the United States.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITION OF FOREIGN PERSON.—For the purposes of this section, the term ''foreign person'' means—

(1) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(2) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States.

SEC. 607. ENFORCEMENT.

(a) GENERAL AUTHORITY AND DESIGNATION.—

(1) POLICY GUIDANCE ON ENFORCEMENT.—The Secretary, in consultation with the Secretary of the Treasury and the heads of other departments and agencies that the Secretary considers appropriate, shall be responsible for providing policy guidance on the enforcement of this Act.

(2) GENERAL AUTHORITIES.—

(A) EXERCISE OF AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act, officers or employees of the Department designated by the Secretary, officers and employees of the United States Customs Service designated by the Commissioner of Customs, and officers and employees of any other department or agency designated by the head of the department or agency, may exercise the enforcement authority under paragraph (3).

(B) CUSTOMS SERVICE.—In carrying out enforcement authority under paragraph (3), the Commissioner of Customs and employees of the United States Customs Services designated by the Commissioner may make investigations within or outside the United States and at ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to carry out law enforcement responsibilities. Subject to paragraph (3), the United States Customs Service is authorized, in the enforcement of this Act, to search, detain (after search), and seize commodities or technology at the ports of entry into or exit from the United States where officers of the United States Customs Service are authorized by law to conduct searches, detentions, and seizures, and at the places outside the United States where the United States Customs Service, pursuant to agreement or other arrangement with other countries, is authorized to perform enforcement activities.

(C) OTHER EMPLOYEES.—In carrying out enforcement authority under paragraph (3), the

Secretary and officers and employees of the Department designated by the Secretary may make investigations within the United States, and may conduct, outside the United States, pre-license and post-shipment verifications of controlled items and investigations in the enforcement of section 602. The Secretary and officers and employees of the Department designated by the Secretary are authorized to search, detain (after search), and seize items at places within the United States other than ports referred to in subparagraph (B). The search, detention (after search), or seizure of items at the ports and places referred to in subparagraph (B) may be conducted by officers and employees of the Department only with the concurrence of the Commissioner of Customs or a person designated by the Commissioner.

(D) AGREEMENTS AND ARRANGEMENTS.—The Secretary and the Commissioner of Customs may enter into agreements and arrangements for the enforcement of this Act, including foreign investigations and information exchange.

(3) SPECIFIC AUTHORITIES.—

(A) ACTIONS BY ANY DESIGNATED PERSONNEL.—Any officer or employee designated under paragraph (2), in carrying out the enforcement authority under this Act, may do the following:

(i) Make investigations of, obtain information from, make inspection of any books, records, or reports (including any writings required to be kept by the Secretary), premises, or property of, and take the sworn testimony of, any person.

(ii) Administer oaths or affirmations, and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both. In the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, on request of the Attorney General and after notice to any such person and a hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both. Any failure to obey such order of the court may be punished by such court as a contempt thereof. The attendance of witnesses and the production of documents provided for in this clause may be required from any State, the District of Columbia, or in any territory of the United States at any designated place. Witnesses subpoenaed under this subsection shall be paid the same fees and mileage allowance as paid witnesses in the district courts of the United States.

(B) ACTIONS BY OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—

(i) OFFICE OF EXPORT ENFORCEMENT AND CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the Office of Export Enforcement of the Department of Commerce (in this Act referred to as ''OEE'') who is designated by the Secretary under paragraph (2), and any officer or employee of the United States Customs Service who is designated by the Commissioner of Customs under paragraph (2), may do the following in carrying out the enforcement authority under this Act:

(I) Execute any warrant or other process issued by a court or officer of competent jurisdiction with respect to the enforcement of this Act.

(II) Make arrests without warrant for any violation of this Act committed in his or her presence or view, or if the officer or employee has probable cause to believe that the person to be arrested has committed, is committing, or is about to commit such a violation.

(III) Carry firearms.

(ii) OEE PERSONNEL.—Any officer and employee of the OEE designated by the Secretary under paragraph (2) shall exercise the authority set forth in clause (i) pursuant to guidelines approved by the Attorney General.

(C) OTHER ACTIONS BY CUSTOMS SERVICE PERSONNEL.—Any officer or employee of the United States Customs Service designated by the Commissioner of Customs under paragraph (2) may do the following in carrying out the enforcement authority under this Act:

(i) Stop, search, and examine a vehicle, vessel, aircraft, or person on which or whom the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(ii) Detain and search any package or container in which the officer or employee has reasonable cause to suspect there is any item that has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(iii) Detain (after search) or seize any item, for purposes of securing for trial or forfeiture to the United States, on or about such vehicle, vessel, aircraft, or person or in such package or container, if the officer or employee has probable cause to believe the item has been, is being, or is about to be exported from or transited through the United States in violation of this Act.

(4) OTHER AUTHORITIES NOT AFFECTED.—The authorities conferred by this section are in addition to any authorities conferred under other laws.

(b) FORFEITURE.—

(1) IN GENERAL.—Any tangible items lawfully seized under subsection (a) by designated officers or employees shall be subject to forfeiture to the United States.

(2) APPLICABLE LAWS.—Those provisions of law relating to—

(A) the seizure, summary and judicial forfeiture, and condemnation of property for violations of the customs laws;

(B) the disposition of such property or the proceeds from the sale thereof;

(C) the remission or mitigation of such forfeitures; and

(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as applicable and not inconsistent with this Act.

(3) FORFEITURES UNDER CUSTOMS LAWS.—Duties that are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws may be performed with respect to seizures and forfeitures of property under this subsection by the Secretary or any officer or employee of the Department that may be authorized or designated for that purpose by the Secretary, or, upon the request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

(c) REFERRAL OF CASES.—All cases involving violations of this Act shall be referred to the Secretary for purposes of determining civil penalties and administrative sanctions under section 603 or to the Attorney General for criminal action in accordance with this Act or to both the Secretary and the Attorney General.

(d) UNDERCOVER INVESTIGATION OPERATIONS.—

(1) USE OF FUNDS.—With respect to any undercover investigative operation conducted by the OEE that is necessary for the detection and prosecution of violations of this Act—

(A) funds made available for export enforcement under this Act may be used to purchase property, buildings, and other facilities, and to lease equipment, conveyances, and space within the United States, without regard to sections 1341 and 3324 of title 31, United States Code, the third undesignated paragraph under the heading of ''miscellaneous'' of the Act of March 3, 1877, (40 U.S.C. 34), sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and subsections (a) and (c) of section 304, and section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254 (a) and (c) and 255);

(B) funds made available for export enforcement under this Act may be used to establish or to acquire proprietary corporations or business entities as part of an undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 1341, 3324, and 9102 of title 31, United States Code;

(C) funds made available for export enforcement under this Act and the proceeds from undercover operations may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code; and

(D) the proceeds from undercover operations may be used to offset necessary and reasonable expenses incurred in such operations without regard to the provisions of section 3302 of title 31, United States Code,

if the Director of OEE (or an officer or employee designated by the Director) certifies, in writing, that the action authorized by subparagraph (A), (B), (C), or (D) for which the funds would be used is necessary for the conduct of the undercover operation.

(2) DISPOSITION OF BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation has a net value of more than $250,000 and is to be liquidated, sold, or otherwise disposed of, the Director of OEE shall report the circumstances to the Secretary and the Comptroller General of the United States as much in advance of such disposition as the Director of the OEE (or the Director's designee) determines is practicable. The proceeds of the liquidation, sale, or other disposition, after obligations incurred by the corporation or business enterprise are met, shall be deposited in the Treasury of the United States as miscellaneous receipts. Any property or equipment purchased pursuant to paragraph (1) may be retained for subsequent use in undercover operations under this section. When such property or equipment is no longer needed, it shall be considered surplus and disposed of as surplus government property.

(3) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an OEE undercover investigative operation with respect to which an action is authorized and carried out under this subsection are no longer needed for the conduct of such operation, the proceeds or the balance of the proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

(4) AUDIT AND REPORT.—

(A) AUDIT.—The Director of OEE shall conduct a detailed financial audit of each closed OEE undercover investigative operation and shall submit the results of the audit in writing to the Secretary. Not later than 180 days after an undercover operation is closed, the Secretary shall submit to Congress a report on the results of the audit.

(B) REPORT.—The Secretary shall submit annually to Congress a report, which may be included in the annual report under section 801, specifying the following information:

(i) The number of undercover investigative operations pending as of the end of the period for which such report is submitted.

(ii) The number of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted.

(iii) The number of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect to the operation.

(5) DEFINITIONS.—For purposes of paragraph (4)—

(A) the term ''closed'', with respect to an undercover investigative operation, refers to the earliest point in time at which all criminal proceedings (other than appeals) pursuant to the investigative operation are concluded, or covert activities pursuant to such operation are concluded, whichever occurs later; and

(B) the terms ''undercover investigative operation'' and ''undercover operation'' mean any undercover investigative operation conducted by the OEE—

(i) in which the gross receipts (excluding interest earned) exceed $25,000, or expenditures (other than expenditures for salaries of employees) exceed $75,000, and

(ii) which is exempt from section 3302 or 9102 of title 31, United States Code, except that clauses (i) and (ii) shall not apply with respect to the report to Congress required by paragraph (4)(B).

(e) WIRETAPS.—

(1) AUTHORITY.—Interceptions of communications in accordance with section 2516 of title 18, United States Code, are authorized to further the enforcement of this Act.

(2) CONFORMING AMENDMENT.—Section 2516(1) of title 18, United States Code, is amended by adding at the end the following:

''(q)(i) any violation of, or conspiracy to violate, the Export Administration Act of 1999 or the Export Administration Act of 1979.''.

(f) POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—The Secretary shall target post-shipment verifications to exports involving the greatest risk to national security including, but not limited to, exports of high performance computers.

(2) REPEAL.—Section 1213 of the National Defense Authorization Act for Fiscal Year 1998 is repealed.

(g) REFUSAL TO ALLOW POST-SHIPMENT VERIFICATION.—

(1) IN GENERAL.—If an end-user refuses to allow post-shipment verification of a controlled item, the Secretary shall deny a license for the export of any controlled item to such end-user until such post-shipment verification occurs.

(2) RELATED PERSONS.—The Secretary may exercise the authority under paragraph (1) with respect to any person related through affiliation, ownership, control, or position of responsibility, to any end-user refusing to allow post-shipment verification of a controlled item.

(3) REFUSAL BY COUNTRY.—If the country in which the end-user is located refuses to allow post-shipment verification of a controlled item, the Secretary may deny a license for the export of that item or any substantially identical or directly competitive item or class of items to all end-users in that country until such post-shipment verification is allowed.

(h) AWARD OF COMPENSATION; PATRIOT PROVISION.—

(1) IN GENERAL.—If—

(A) any person, who is not an employee or officer of the United States, furnishes to a United States attorney, to the Secretary of the Treasury or the Secretary, or to appropriate officials in the Department of the Treasury or the Department of Commerce, original information concerning a violation of this Act or any regulation, order, or license issued under this Act, which is being, or has been, perpetrated or contemplated by any other person, and

(B) such information leads to the recovery of any criminal fine, civil penalty, or forfeiture,

the Secretary may award and pay such person an amount that does not exceed 25 percent of the net amount of the criminal fine or civil penalty recovered or the amount forfeited.

(2) DOLLAR LIMITATION.—The amount awarded and paid to any person under this section may not exceed $250,000 for any case.

(3) SOURCE OF PAYMENT.—The amount paid under this section shall be paid out of any penalties, forfeitures, or appropriated funds.

(i) FREIGHT FORWARDERS BEST PRACTICES PROGRAM AUTHORIZATION.—There is authorized to be appropriated for the Department of Commerce $3,500,000 and such sums as may be necessary to hire 20 additional employees to assist United States freight forwarders and other interested parties in developing and implementing, on a voluntary basis, a ''best practices'' program to ensure that exports of controlled items are undertaken in compliance with this Act.

(j) END-USE VERIFICATION AUTHORIZATION.—

(1) IN GENERAL.—There is authorized to be appropriated for the Department of Commerce $4,500,000 and such sums as may be necessary to hire 10 additional overseas investigators to be posted in the People's Republic of China, the Russian Federation, the Hong Kong Special Administrative Region, the Republic of India, Singapore, Egypt, and Taiwan, or any other place the Secretary deems appropriate, for the purpose of verifying the end use of high-risk, dual-use technology.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act and annually thereafter, the Department shall, in its annual report to Congress on export controls, include a report on the effectiveness of the end-use verification activities authorized under subsection (a). The report shall include the following information:

(A) The activities of the overseas investigators of the Department.

(B) The types of goods and technologies that were subject to end-use verification.

(C) The ability of the Department's investigators to detect the illegal transfer of high risk, dual-use goods and technologies.

(k) ENHANCED COOPERATION WITH UNITED STATES CUSTOMS SERVICE.—Consistent with the purposes of this Act, the Secretary is authorized to undertake, in cooperation with the United States Customs Service, such measures as may be necessary or required to enhance the ability of the United States to detect unlawful exports and to enforce violations of this Act.

(l) REFERENCE TO ENFORCEMENT.—For purposes of this section, a reference to the enforcement of this Act or to a violation of this Act includes a reference to the enforcement or a violation of any regulation, license, or order issued under this Act.

(m) AUTHORIZATION FOR EXPORT LICENSING AND ENFORCEMENT COMPUTER SYSTEM.—There is authorized to be appropriated for the Department $5,000,000 and such other sums as may be necessary for planning, design, and procurement of a computer system to replace the Department's primary export licensing and computer enforcement system.

SEC. 608. ADMINISTRATIVE PROCEDURE.

(a) EXEMPTIONS FROM ADMINISTRATIVE PROCEDURE.—Except as provided in this section, the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PROCEDURES RELATING TO CIVIL PENALTIES AND SANCTIONS.—

(1) ADMINISTRATIVE PROCEDURES.—Any administrative sanction imposed under section 603 may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code. The imposition of any such administrative sanction shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(2) AVAILABILITY OF CHARGING LETTER.—Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued under section 602 shall be made available for public inspection and copying.

(c) COLLECTION.—If any person fails to pay a civil penalty imposed under section 603, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) IMPOSITION OF TEMPORARY DENIAL ORDERS.—

(1) GROUNDS FOR IMPOSITION.—In any case in which there is reasonable cause to believe that a person is engaged in or is about to engage in any act or practice which constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act, including any diversion of goods or technology from an authorized end use or end user, and in any case in which a criminal indictment has been returned against a person alleging a violation of this Act or any of the statutes listed in section 603, the Secretary may, without a hearing, issue an order temporarily denying that person's United States export privileges (hereafter in this subsection referred to as a ''temporary denial order''). A temporary denial order shall be effective for such period (not in excess of 180 days) as the Secretary specifies in the order, but may be renewed by the Secretary, following notice and an opportunity for a hearing, for additional periods of not more than 180 days each.

(2) ADMINISTRATIVE APPEALS.—The person or persons subject to the issuance or renewal of a temporary denial order may appeal the issuance or renewal of the temporary denial order, supported by briefs and other material, to an administrative law judge who shall, within 15 working days after the appeal is filed, issue a decision affirming, modifying, or vacating the temporary denial order. The temporary denial order shall be affirmed if it is shown that—

(A) there is reasonable cause to believe that the person subject to the order is engaged in or is about to engage in any act or practice that constitutes or would constitute a violation of this Act, or any regulation, order, or license issued under this Act; or

(B) a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or any of the statutes listed in section 603.

The decision of the administrative law judge shall be final unless, within 10 working days after the date of the administrative law judge's decision, an appeal is filed with the Secretary. On appeal, the Secretary shall either affirm, modify, reverse, or vacate the decision of the administrative law judge by written order within 10 working days after receiving the appeal. The written order of

the Secretary shall be final and is not subject to judicial review, except as provided in paragraph (3). The materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the court.

(3) COURT APPEALS.—An order of the Secretary affirming, in whole or in part, the issuance or renewal of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have the jurisdiction of the appeal. The court may review only those issues necessary to determine whether the issuance of the temporary denial order was based on reasonable cause to believe that the person subject to the order was engaged in or was about to engage in any act or practice that constitutes or would constitute a violation of this title, or any regulation, order, or license issued under this Act, or whether a criminal indictment has been returned against the person subject to the order alleging a violation of this Act or of any of the statutes listed in section 603. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

TITLE VII—EXPORT CONTROL AUTHORITY AND REGULATIONS

SEC. 701. EXPORT CONTROL AUTHORITY AND REGULATIONS.

(a) EXPORT CONTROL AUTHORITY.—

(1) IN GENERAL.—Unless otherwise reserved to the President or a department (other than the Department) or agency of the United States, all power, authority, and discretion conferred by this Act shall be exercised by the Secretary.

(2) DELEGATION OF FUNCTIONS OF THE SECRETARY.—The Secretary may delegate any function under this Act, unless otherwise provided, to the Under Secretary of Commerce for Export Administration or to any other officer of the Department.

(b) UNDER SECRETARY OF COMMERCE; ASSISTANT SECRETARIES.—

(1) UNDER SECRETARY OF COMMERCE.—There shall be within the Department an Under Secretary of Commerce for Export Administration (in this section referred to as the ''Under Secretary'') who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall carry out all functions of the Secretary under this Act and other provisions of law relating to national security, as the Secretary may delegate.

(2) ADDITIONAL ASSISTANT SECRETARIES.—In addition to the number of Assistant Secretaries otherwise authorized for the Department of Commerce, there shall be within the Department of Commerce the following Assistant Secretaries of Commerce:

(A) An Assistant Secretary for Export Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export listing and licensing.

(B) An Assistant Secretary for Export Enforcement who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall assist the Secretary and the Under Secretary in carrying out functions relating to export enforcement.

(c) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—The President and the Secretary may issue such regulations as are necessary to carry out this Act. Any such regulations the purpose of which is to carry out title II or title III may be issued only after the regulations are submitted for review to such departments or agencies as the President considers appropriate. The Secretary shall consult with the appropriate export control advisory committee appointed under section 105(f) in formulating regulations under this title. The second sentence of this subsection does not require the concurrence or approval of any official, department, or agency to which such regulations are submitted.

(2) AMENDMENTS TO REGULATIONS.—If the Secretary proposes to amend regulations issued under this Act, the Secretary shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives on the intent and rationale of such amendments. Such report shall evaluate the cost and burden to the United States exporters of the proposed amendments in relation to any enhancement of licensing objectives. The Secretary shall consult with the appropriate export control advisory committees appointed under section 105(f) in amending regulations issued under this Act.

SEC. 702. CONFIDENTIALITY OF INFORMATION.

(a) EXEMPTIONS FROM DISCLOSURE.—

(1) INFORMATION OBTAINED ON OR BEFORE JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 602(c)(2), information obtained under the Export Administration Act of 1979, or any predecessor statute, on or before June 30, 1980, which is deemed confidential, including Shipper's Export Declarations, or with respect to which a request for confidential treatment is made by the person furnishing such information, shall not be subject to disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed, unless the Secretary determines that the withholding thereof is contrary to the national interest.

(2) INFORMATION OBTAINED AFTER JUNE 30, 1980.—Except as otherwise provided by the third sentence of section 13(b)(2) of the Export Administration Act of 1979, information obtained under this Act, under the Export Administration Act of 1979 after June 30, 1980, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), may be withheld from disclosure only to the extent permitted by statute, except that information submitted, obtained, or considered in connection with an application for an export license or other export authorization (or recordkeeping or reporting requirement) under the Export Administration Act of 1979, under this Act, or under the Export Administration regulations as maintained and amended under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1706), including—

(A) the export license or other export authorization itself,

(B) classification requests described in section 501(h),

(C) information or evidence obtained in the course of any investigation,

(D) information obtained or furnished under title VII in connection with any international agreement, treaty, or other obligation, and

(E) information obtained in making the determinations set forth in section 211 of this Act,

and information obtained in any investigation of an alleged violation of section 602 of this Act except for information required to be disclosed by section 602(c)(2) or 606(b)(2) of this Act, shall be withheld from public disclosure and shall not be subject to disclosure under section 552 of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.

(b) INFORMATION TO CONGRESS AND GAO.—

(1) IN GENERAL.—Nothing in this title shall be construed as authorizing the withholding of information from Congress or from the General Accounting Office.

(2) AVAILABILITY TO THE CONGRESS—

(A) IN GENERAL.—Any information obtained at any time under this title or under any predecessor Act regarding the control of exports, including any report or license application required under this title, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the request of the chairman or ranking minority member of such committee or subcommittee.

(B) PROHIBITION ON FURTHER DISCLOSURE.—No committee, subcommittee, or Member of Congress shall disclose any information obtained under this Act or any predecessor Act regarding the control of exports which is submitted on a confidential basis to the Congress under subparagraph (A) unless the full committee to which the information is made available determines that the withholding of the information is contrary to the national interest.

(3) AVAILABILITY TO THE GAO.—

(A) IN GENERAL.—Notwithstanding subsection (a), information described in paragraph (2) shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 716 of title 31, United States Code, be made available only by the agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office authorized by the Comptroller General to have access to such information.

(B) PROHIBITION ON FURTHER DISCLOSURES.—No officer or employee of the General Accounting Office shall disclose, except to Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(c) INFORMATION EXCHANGE.—Notwithstanding subsection (a), the Secretary and the Commissioner of Customs shall exchange licensing and enforcement information with each other as necessary to facilitate enforcement efforts and effective license decisions.

(d) PENALTIES FOR DISCLOSURE OF CONFIDENTIAL INFORMATION.—

(1) DISCLOSURE PROHIBITED.—No officer or employee of the United States, or any department or agency thereof, may publish, divulge, disclose, or make known in any manner or to any extent not authorized by law any information that—

(A) the officer or employee obtains in the course of his or her employment or official duties or by reason of any examination or investigation made by, or report or record made to or filed with, such department or agency, or officer or employee thereof; and

(B) is exempt from disclosure under this section.

(2) CRIMINAL PENALTIES.—Any such officer or employee who knowingly violates paragraph (1) shall be fined not more than $50,000, imprisoned not more than 1 year, or both, for each violation of paragraph (1). Any such officer or employee may also be removed from office or employment.

(3) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—The Secretary may impose a civil penalty of not more than $5,000 for each violation of paragraph (1). Any officer or employee who commits such violation may also be removed from office or employment for

the violation of paragraph (1). Subsections 603 (e), (g), (h), and (i) and 606 (a), (b), and (c) shall apply to violations described in this paragraph.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. ANNUAL AND PERIODIC REPORTS.

(a) ANNUAL REPORT.—Not later than February 1 of each year, the Secretary shall submit to Congress a report on the administration of this Act during the fiscal year ending September 30 of the preceding calendar year. All Federal agencies shall cooperate fully with the Secretary in providing information for each such report.

(b) REPORT ELEMENTS.—Each such report shall include in detail—

(1) a description of the implementation of the export control policies established by this Act, including any delegations of authority by the President and any other changes in the exercise of delegated authority;

(2) a description of the changes to and the year-end status of country tiering and the Control List;

(3) a description of the determinations made with respect to foreign availability and mass-market status, the set-asides of foreign availability and mass-market status determinations, and negotiations to eliminate foreign availability;

(4) a description of the regulations issued under this Act;

(5) a description of organizational and procedural changes undertaken in furtherance of this Act;

(6) a description of the enforcement activities, violations, and sanctions imposed under section 604;

(7) a statistical summary of all applications and notifications, including—

(A) the number of applications and notifications pending review at the beginning of the fiscal year;

(B) the number of notifications returned and subject to full license procedure;

(C) the number of notifications with no action required;

(D) the number of applications that were approved, denied, or withdrawn, and the number of applications where final action was taken; and

(E) the number of applications and notifications pending review at the end of the fiscal year;

(8) summary of export license data by export identification code and dollar value by country;

(9) an identification of processing time by—

(A) overall average, and

(B) top 25 export identification codes;

(10) an assessment of the effectiveness of multilateral regimes, and a description of negotiations regarding export controls;

(11) a description of the significant differences between the export control requirements of the United States and those of other multilateral control regime members, the specific differences between United States requirements and those of other significant supplier countries, and a description of the extent to which the executive branch intends to address the differences;

(12) an assessment of the costs of export controls;

(13) a description of the progress made toward achieving the goals established for the Department dealing with export controls under the Government Performance Results Act; and

(14) any other reports required by this Act to be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives.

(c) CONGRESSIONAL NOTIFICATION.—Whenever the Secretary determines, in consultation with other appropriate departments and agencies, that a significant violation of this Act poses a direct and imminent threat to United States national security interests, the Secretary, in consultation with other appropriate departments and agencies, shall advise the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on International Relations of the House of Representatives of such violation consistent with the protection of law enforcement sources, methods, and activities.

(d) FEDERAL REGISTER PUBLICATION REQUIREMENTS.—Whenever information under this Act is required to be published in the Federal Register, such information shall, in addition, be made available on the appropriate Internet website of the Department.

SEC. 802. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL.—The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) is repealed.

(b) ENERGY POLICY AND CONSERVATION ACT.—(1) Section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212) is repealed.

(2) Section 251(d) of the Energy Policy and Conservation Act (42 U.S.C. 6271(d)) is repealed.

(c) ALASKA NATURAL GAS TRANSPORTATION ACT.—Section 12 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719j) is repealed.

(d) MINERAL LEASING ACT.—Section 28(u) of the Mineral Leasing Act (30 U.S.C. 185(u)) is repealed.

(e) EXPORTS OF ALASKAN NORTH SLOPE OIL.—Section 28(s) of the Mineral Leasing Act (30 U.S.C. 185(s)) is repealed.

(f) DISPOSITION OF CERTAIN NAVAL PETROLEUM RESERVE PRODUCTS.—Section 7430(e) of title 10, United States Code, is repealed.

(g) OUTER CONTINENTAL SHELF LANDS ACT.—Section 28 of the Outer Continental Shelf Lands Act (43 U.S.C. 1354) is repealed.

(h) FOREST RESOURCES CONSERVATION AND SHORTAGE ACT.—Section 491 of the Forest Resource Conservation and Shortage Relief Act of 1990 (16 U.S.C. 620c) is repealed.

(i) ARMS EXPORT CONTROL ACT.—

(1) Section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) in subsection (e)—

(i) in the first sentence, by striking ''subsections (c)'' and all that follows through ''12 of such Act,'' and inserting ''subsections (b), (c), (d) and (e) of section 603 of the Export Administration Act of 1999, by subsections (a) and (b) of section 607 of such Act, and by section 702 of such Act,''; and

(ii) in the third sentence, by striking ''11(c) of the Export Administration Act of 1979'' and inserting ''603(c) of the Export Administration Act of 1999''; and

(B) in subsection (g)(1)(A)(ii), by inserting ''or section 603 of the Export Administration Act of 1999'' after ''1979''.

(2) Section 39A(c) of the Arms Export Control Act is amended—

(A) by striking ''subsections (c),'' and all that follows through ''12(a) of such Act'' and inserting ''subsections (c), (d), and (e) of section 603, section 608(c), and subsections (a) and (b) of section 607, of the Export Administration Act of 1999''; and

(B) by striking ''11(c)'' and inserting ''603(c)''.

(3) Section 40(k) of the Arms Export Control Act (22 U.S.C. 2780(k)) is amended—

(A) by striking ''11(c), 11(e), 11(g), and 12(a) of the Export Administration Act of 1979'' and inserting ''603(b), 603(c), 603(e), 607(a), and 607(b) of the Export Administration Act of 1999''; and

(B) by striking ''11(c)'' and inserting ''603(c)''.

(j) OTHER PROVISIONS OF LAW.—

(1) Section 5(b)(4) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)(4)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of that Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''titles II and III of the Export Administration Act of 1999''.

(2) Section 502B(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(a)(2)) is amended in the second sentence—

(A) by striking ''Export Administration Act of 1979'' the first place it appears and inserting ''Export Administration Act of 1999''; and

(B) by striking ''Act of 1979)'' and inserting ''Act of 1999)''.

(3) Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(a)) is amended—

(A) in paragraph (1)(B), by inserting ''or section 310 of the Export Administration Act of 1999'' after ''Act of 1979''; and

(B) in paragraph (2), by inserting ''or 310 of the Export Administration Act of 1999'' after ''6(j) of the Export Administration Act of 1979''.

(4) Section 40(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2712(e)(1)) is amended by striking ''section 6(j)(1) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 1999''.

(5) Section 205(d)(4)(B) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4305(d)(4)(B)) is amended by striking ''section 6(j) of the Export Administration Act of 1979'' and inserting ''section 310 of the Export Administration Act of 1999''.

(6) Section 110 of the International Security and Development Cooperation Act of 1980 (22 U.S.C. 2778a) is amended by striking ''Act of 1979'' and inserting ''Act of 1999''.

(7) Section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)) is amended by striking ''section 5 of the Export Administration Act of 1979, or under section 6 of such Act to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States'' and inserting ''the Export Administration Act of 1999''.

(8) Section 1605(a)(7)(A) of title 28, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 1999''.

(9) Section 2332d(a) of title 18, United States Code, is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405)'' and inserting ''section 310 of the Export Administration Act of 1999''.

(10) Section 620H(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2378(a)(1)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 1999''.

(11) Section 1621(a) of the International Financial Institutions Act (22 U.S.C. 262p–4q(a)) is amended by striking ''section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j))'' and inserting ''section 310 of the Export Administration Act of 1999''.

(12) Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking ''section 11 (relating to violations) of the Export Administration of 1979'' and inserting ''section 603 (relating to penalties) of the Export Administration Act of 1999''.

SEC. 803. SAVINGS PROVISIONS.

(a) IN GENERAL.—All delegations, rules, regulations, orders, determinations, licenses,

or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under—

(1) the Export Control Act of 1949, the Export Administration Act of 1969, the Export Administration Act of 1979, or the International Emergency Economic Powers Act when invoked to maintain and continue the Export Administration regulations, or

(2) those provisions of the Arms Export Control Act which are amended by section 802,

and are in effect on the date of enactment of this Act, shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act or the Arms Export Control Act.

(b) ADMINISTRATIVE AND JUDICIAL PROCEEDINGS.—

(1) EXPORT ADMINISTRATION ACT.—This Act shall not affect any administrative or judicial proceedings commenced or any application for a license made, under the Export Administration Act of 1979 or pursuant to Executive Order 12924, which is pending at the time this Act takes effect. Any such proceedings, and any action on such application, shall continue under the Export Administration Act of 1979 as if that Act had not been repealed.

(2) OTHER PROVISIONS OF LAW.—This Act shall not affect any administrative or judicial proceeding commenced or any application for a license made, under those provisions of the Arms Export Control Act which are amended by section 802, if such proceeding or application is pending at the time this Act takes effect. Any such proceeding, and any action on such application, shall continue under those provisions as if those provisions had not been amended by section 802.

(c) TREATMENT OF CERTAIN DETERMINATIONS.—Any determination with respect to the government of a foreign country under section 6(j) of the Export Administration Act of 1979, or Executive Order 12924, that is in effect on the day before the date of enactment of this Act, shall, for purposes of this title or any other provision of law, be deemed to be made under section 310 of this Act until superseded by a determination under such section 310.

(d) IMPLEMENTATION.—The Secretary shall make any revisions to the Export Administration regulations required by this Act no later than 180 days after the date of enactment of this Act.

ASHCROFT (AND OTHERS) AMENDMENT NO. 2491

(Ordered to lie on the table.)

Mr. ASHCROFT (for himself, Mr. HAGEL, Mr. BAUCUS, Mr. DODD, Mr. DORGAN, Mr. BROWNBACK, Mr. KERREY, Mr. ROBERTS, Mr. ABRAHAM, Mr. ALLARD, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mr. BURNS, Mr. CONRAD, Mr. CRAIG, Mr. CRAPO, Mr. DASCHLE, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. GORTON, Mr. GRAMS, Mr. HARKIN, Mr. HUTCHINSON, Mr. INHOFE, Mr. JEFFORDS, Mr. KENNEDY, Mr. LEAHY, Mrs. LINCOLN, Mr. THOMAS, Mr. WARNER, Mr. SESSIONS, and Ms. LANDRIEU) submitted an amendment intended to be proposed by them to the bill, H.R. 434, as follows:

At the appropriate place, insert the following:

SECTION 1. PURPOSE.

The purpose of this section is to establish U.S. policy with regard to trade of agriculture commodities, medicine and medical equipment.

SEC. 2. REQUIREMENT OF CONGRESSIONAL APPROVAL OF ANY UNILATERAL AGRICULTURAL OR MEDICAL SANCTION.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term ''agricultural commodity'' has the meaning given the term in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602).

(2) AGRICULTURAL PROGRAM.—The term ''agricultural program'' means—

(A) any program administered under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et. seq.);

(B) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(C) any program administered under the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et. seq.);

(D) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14);

(E) any commercial export sale of agricultural commodities; or

(F) any export financing (including credits or credit guarantees) provided by the United States Government for agricultural commodities.

(3) JOINT RESOLUTION.—The term ''joint resolution'' means—

(A) in the case of subsection (b)(1)(B), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (b)(1)(A) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section 2(b)(1)(A) of the Food and Medicine for the World Act, transmitted on _____.'', with the blank completed with the appropriate date; and

(B) in the case of subsection (e)(2), only a joint resolution introduced within 10 session days of Congress after the date on which the report of the President under subsection (e)(1) is received by Congress, the matter after the resolving clause of which is as follows: ''That Congress approves the report of the President pursuant to section 2(e)(1) of the Food and Medicine for the World Act, transmitted on _____.'', with the blank completed with the appropriate date.

(4) MEDICAL DEVICE.—The term ''medical device'' has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(5) MEDICINE.—The term ''medicine'' has the meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(6) UNILATERAL AGRICULTURAL SANCTION.—The term ''unilateral agricultural sanction'' means any prohibition, restriction, or condition on carrying out an agricultural program with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(7) UNILATERAL MEDICAL SANCTION.—The term ''unilateral medical sanction'' means any prohibition, restriction, or condition on exports of, or the provision of assistance consisting of, medicine or a medical device with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security, except in a case in which the United States imposes the measure pursuant to a multilateral regime and the other member countries of that regime have agreed to impose substantially equivalent measures.

(b) RESTRICTION.—

(1) NEW SANCTIONS.—Except as provided in subsections (c) and (d) and notwithstanding any other provision of law, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity, unless—

(A) not later than 60 days before the sanction is proposed to be imposed, the President submits a report to Congress that—

(i) describes the activity proposed to be prohibited, restricted, or conditioned; and

(ii) describes the actions by the foreign country or foreign entity that justify the sanction; and

(B) Congress enacts a joint resolution stating the approval of Congress for the report submitted under subparagraph (A).

(2) EXISTING SANCTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, the President shall terminate the sanction.

(B) EXEMPTIONS.—Subparagraph (A) shall not apply to a unilateral agricultural sanction or unilateral medical sanction imposed with respect to—

(i) any program administered under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(ii) the Export Credit Guarantee Program (GSM–102) or the Intermediate Export Credit Guarantee Program (GSM–103) established under section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622); or

(iii) the dairy export incentive program administered under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

(c) EXCEPTIONS.—Subsection (b) shall not affect any authority or requirement to impose (or continue to impose) a sanction referred to in subsection (b)—

(1) against a foreign country or foreign entity with respect to which Congress has enacted a declaration of war that is in effect on or after the date of enactment of this Act; or

(2) to the extent that the sanction would prohibit, restrict, or condition the provision or use of any agricultural commodity, medicine, or medical device that is—

(A) controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778);

(B) controlled on any control list established under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.); or

(C) used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—Subsection (b) shall not affect the prohibitions in effect on or after the date of enactment of this Act under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) on providing, to the government of any country supporting international terrorism, United States government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

(e) TERMINATION OF SANCTIONS.—Any unilateral agricultural sanction or unilateral medical sanction that is imposed pursuant to the procedures described in subsection (b)(1) shall terminate not later than 2 years after the date on which the sanction became effective unless—

(1) not later than 60 days before the date of termination of the sanction, the President submits to Congress a report containing the recommendation of the President for the continuation of the sanction for an additional period of not to exceed 2 years and the request of the President for approval by Congress of the recommendation; and

(2) Congress enacts a joint resolution stating the approval of Congress for the report submitted under paragraph (1).

(f) CONGRESSIONAL PRIORITY PROCEDURES.—

(1) REFERRAL OF REPORT.—A report described in subsection (b)(1)(A) or (e)(1) shall be referred to the appropriate committee or committees of the House of Representatives and to the appropriate committee or committees of the Senate.

(2) REFERRAL OF JOINT RESOLUTION.—

(A) IN GENERAL.—A joint resolution shall be referred to the committees in each House of Congress with jurisdiction.

(B) REPORTING DATE.—A joint resolution referred to in subparagraph (A) may not be reported before the eighth session day of Congress after the introduction of the joint resolution.

(3) DISCHARGE OF COMMITTEE.—If the committee to which is referred a joint resolution has not reported the joint resolution (or an identical joint resolution) at the end of 30 session days of Congress after the date of introduction of the joint resolution—

(A) the committee shall be discharged from further consideration of the joint resolution; and

(B) the joint resolution shall be placed on the appropriate calendar of the House concerned.

(4) FLOOR CONSIDERATION.—

(A) MOTION TO PROCEED.—

(i) IN GENERAL.—When the committee to which a joint resolution is referred has reported, or when a committee is discharged under paragraph (3) from further consideration of, a joint resolution—

(I) it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any member of the House concerned to move to proceed to the consideration of the joint resolution; and

(II) all points of order against the joint resolution (and against consideration of the joint resolution) are waived.

(ii) PRIVILEGE.—The motion to proceed to the consideration of the joint resolution—

(I) shall be highly privileged in the House of Representatives and privileged in the Senate; and

(II) not debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—The motion to proceed to the consideration of the joint resolution shall not be subject to—

(I) amendment;

(II) a motion to postpone; or

(III) a motion to proceed to the consideration of other business.

(iv) MOTION TO RECONSIDER NOT IN ORDER.—A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(v) BUSINESS UNTIL DISPOSITION.—If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the House concerned until disposed of.

(B) LIMITATIONS ON DEBATE.—

(i) IN GENERAL.—Debate on the joint resolution, and on all debatable motions and appeals in connection with the joint resolution, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution.

(ii) FURTHER DEBATE LIMITATIONS.—A motion to limit debate shall be in order and shall not be debatable.

(iii) AMENDMENTS AND MOTIONS NOT IN ORDER.—An amendment to, a motion to postpone, a motion to proceed to the consideration of other business, a motion to recommit the joint resolution, or a motion to reconsider the vote by which the joint resolution is agreed to or disagreed to shall not be in order.

(C) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House concerned, the vote on final passage of the joint resolution shall occur.

(D) RULINGS OF THE CHAIR ON PROCEDURE.—An appeal from a decision of the Chair relating to the application of the rules of the Senate or House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, the following procedures shall apply:

(A) NO COMMITTEE REFERRAL.—The joint resolution of the other House shall not be referred to a committee.

(B) FLOOR PROCEDURE.—With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(C) DISPOSITION OF JOINT RESOLUTIONS OF RECEIVING HOUSE.—On disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution originated in the receiving House.

(6) PROCEDURES AFTER ACTION BY BOTH THE HOUSE AND SENATE.—If a House receives a joint resolution from the other House after the receiving House has disposed of a joint resolution originated in that House, the action of the receiving House with regard to the disposition of the joint resolution originated in that House shall be deemed to be the action of the receiving House with regard to the joint resolution originated in the other House.

(7) RULEMAKING POWER.—This paragraph is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such this paragraph—

(i) is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution; and

(ii) supersedes other rules only to the extent that this paragraph is inconsistent with those rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section takes effect on the date of enactment of this Act.

(2) EXISTING SANCTIONS.—In the case of any unilateral agricultural sanction or unilateral medical sanction that is in effect as of the date of enactment of this Act, this section takes effect 180 days after the date of enactment of this Act.

HOLLINGS AMENDMENTS NOS. 2492–2493

(Ordered to lie on the table.)

Mr. HOLLINGS submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2492

At the appropriate place, insert the following:

SEC. . RECIPROCAL TRADE AGREEMENTS REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated, obtained, and implemented an agreement with the country providing tariff concessions for the importation of United States-made goods that reduce any such import tariffs to rates identical to the tariff rates applied by the United States to that country.

AMENDMENT NO. 2493

At the appropriate place in the bill, insert the following:

SEC. . ENVIRONMENTAL AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not be available to any country until the President has negotiated with that country a side agreement concerning the environment, similar to the North American Agreement on Environmental Cooperation, and submitted that agreement to the Congress.

HARKIN AMENDMENTS NOS. 2494–2495

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2494

At the appropriate place, insert the following new section:

SECTION . SHORT TITLE.

This Act may be cited as the ''Child Labor Deterrence Act of 1999''.

SEC. . FINDINGS; PURPOSE; POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Principle 9 of the Declaration of the Rights of the Child proclaimed by the General Assembly of the United Nations on November 20, 1959, states that ''. . . the child shall not be admitted to employment before an appropriate minimum age; he shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education, or interfere with his physical, mental, or moral development . . .''.

(2) Article 2 of the International Labor Convention No. 138 Concerning Minimum Age For Admission to Employment states that ''The minimum age specified in pursuance of paragraph 1 of this article shall not be less than the age of compulsory schooling and, in any case, shall not be less than 15 years.''.

(3) The new International Labor Convention addressing the worst forms of child labor calls on member States to take immediate and effective action to prohibit and eliminate such labor. According to the convention, the worst forms of child labor are—

(A) slavery;

(B) debt bondage;

(C) forced or compulsory labor;

(D) the sale or trafficking of children, including the forced or compulsory recruitment of children for use in armed conflict;

(E) child prostitution;

(F) the use of children in the production and trafficking of narcotics; and

(G) any other work that, by its nature or due to the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

(4) According to the International Labor Organization, an estimated 250,000,000 children under the age of 15 worldwide are working, many of them in dangerous industries like mining and fireworks.

(5) Children under the age of 15 constitute approximately 22 percent of the workforce in some Asian countries, 41 percent of the workforce in parts of Africa, and 17 percent of the workforce in many countries in Latin America.

(6) The number of children under the age of 15 who are working, and the scale of their suffering, increase every year, despite the existence of more than 20 International Labor Organization conventions on child labor and national laws in many countries which purportedly prohibit the employment of under age children.

(7) In many countries, children under the age of 15 lack either the legal standing or means to protect themselves from exploitation in the workplace.

(8) The prevalence of child labor in many developing countries is rooted in widespread poverty that is attributable to unemployment and underemployment, precarious incomes, low living standards, and insufficient education and training opportunities among adult workers.

(9) The employment of children under the age of 15 commonly deprives the children of the opportunity for basic education and also denies gainful employment to millions of adults.

(10) The employment of children under the age of 15, often at pitifully low wages, undermines the stability of families and ignores the importance of increasing jobs, aggregated demand, and purchasing power among adults as a catalyst to the development of internal markets and the achievement of broadbased, self-reliant economic development in many developing countries.

(11) United Nations Children's Fund (commonly known as UNICEF) estimates that by the year 2000, over 1,000,000 adults will be unable to read or write at a basic level because such adults were forced to work as children and were thus unable to devote the time to secure a basic education.

(b) PURPOSE.—The purpose of this Act is to curtail the employment of children under the age of 15 in the production of goods for export by—

(1) eliminating the role of the United States in providing a market for foreign products made by such children;

(2) supporting activities and programs to extend primary education, rehabilitation, and alternative skills training to child workers, to improve birth registration, and to improve the scope and quality of statistical information and research on the commercial exploitation of such children in the workplace; and

(3) encouraging other nations to join in a ban on trade in products described in paragraph (1) and to support those activities and programs described in paragraph (2).

(c) POLICY.—It is the policy of the United States—

(1) to actively discourage the employment of children under the age of 15 in the production of goods for export or domestic consumption;

(2) to strengthen and supplement international trading rules with a view to renouncing the use of under age children in the production of goods for export as a means of competing in international trade;

(3) to amend Federal law to prohibit the entry into commerce of products resulting from the labor of under age children; and

(4) to offer assistance to foreign countries to improve the enforcement of national laws prohibiting the employment of children under the age of 15 and to increase assistance to alleviate the underlying poverty that is often the cause of the commercial exploitation of such children.

SEC. . UNITED STATES INITIATIVE TO CURTAIL INTERNATIONAL TRADE IN PRODUCTS OF CHILD LABOR.

In pursuit of the policy set forth in this Act, the President is urged to seek an agreement with the government of each country that conducts trade with the United States for the purpose of securing an international ban on trade in products of child labor.

SEC. . DEFINITIONS.

In this Act:

(1) CHILD.—The term ''child'' means—

(A) an individual who has not attained the age of 15, as measured by the Julian calendar; or

(B) an individual who has not attained the age of 14, as measured by the Julian calendar, in the case of a country identified under section 5 whose national laws define a child as such an individual.

(2) EFFECTIVE IDENTIFICATION PERIOD.—The term ''effective identification period'' means, with respect to a foreign industry or host country, the period that—

(A) begins on the date of that issue of the Federal Register in which the identification of the foreign industry or host country is published under section 5(e)(1)(A); and

(B) terminates on the date of that issue of the Federal Register in which the revocation of the identification referred to in subparagraph (A) is published under section 5(e)(1)(B).

(3) ENTERED.—The term ''entered'' means entered, or withdrawn from a warehouse for consumption, in the customs territory of the United States.

(4) EXTRACTION.—The term ''extraction'' includes mining, quarrying, pumping, and other means of extraction.

(5) FOREIGN INDUSTRY.—The term ''foreign industry'' includes any entity that produces, manufactures, assembles, processes, or extracts an article in a host country.

(6) HOST COUNTRY.—The term ''host country'' means any foreign country, and any possession or territory of a foreign country that is administered separately for customs purposes (including any designated zone within such country, possession, or territory) in which a foreign industry is located.

(7) MANUFACTURED ARTICLE.—The term ''manufactured article'' means any good that is fabricated, assembled, or processed. The term also includes any mineral resource (including any mineral fuel) that is entered in a crude state. Any mineral resource that at entry has been subjected to only washing, crushing, grinding, powdering, levigation, sifting, screening, or concentration by flotation, magnetic separation, or other mechanical or physical processes shall be treated as having been processed for the purposes of this Act.

(8) PRODUCTS OF CHILD LABOR.—An article shall be treated as being a product of child labor—

(A) if, with respect to the article, a child was engaged in the manufacture, fabrication, assembly, processing, or extraction, in whole or in part; and

(B) if the labor was performed—

(i) in exchange for remuneration (regardless to whom paid), subsistence, goods, or services, or any combination of the foregoing;

(ii) under circumstances tantamount to involuntary servitude; or

(iii) under exposure to toxic substances or working conditions otherwise posing serious health hazards.

(9) SECRETARY.—The term ''Secretary'', except for purposes of section 5, means the Secretary of the Treasury.

SEC. . IDENTIFICATION OF FOREIGN INDUSTRIES AND THEIR RESPECTIVE HOST COUNTRIES THAT UTILIZE CHILD LABOR IN EXPORT OF GOODS.

(a) IDENTIFICATION OF INDUSTRIES AND HOST COUNTRIES.—

(1) IN GENERAL.—The Secretary of Labor (in this section referred to as the ''Secretary'') shall undertake periodic reviews using all available information, including information made available by the International Labor Organization and human rights organizations (the first such review to be undertaken not later than 180 days after the date of enactment of this Act), to identify any foreign industry that—

(A) does not comply with applicable national laws prohibiting child labor in the workplace;

(B) utilizes child labor in connection with products that are exported; and

(C) has on a continuing basis exported products of child labor to the United States.

(2) TREATMENT OF IDENTIFICATION.—For purposes of this Act, the identification of a foreign industry shall be treated as also being an identification of the host country.

(b) PETITIONS REQUESTING IDENTIFICATION.—

(1) FILING.—Any person may file a petition with the Secretary requesting that a particular foreign industry and its host country be identified under subsection (a). The petition must set forth the allegations in support of the request.

(2) ACTION ON RECEIPT OF PETITION.—Not later than 90 days after receiving a petition under paragraph (1), the Secretary shall—

(A) decide whether or not the allegations in the petition warrant further action by the Secretary in regard to the foreign industry and its host country under subsection (a); and

(B) notify the petitioner of the decision under subparagraph (A) and the facts and reasons supporting the decision.

(c) CONSULTATION AND COMMENT.—Before identifying a foreign industry and its host country under subsection (a), the Secretary shall—

(1) consult with the United States Trade Representative, the Secretary of State, the Secretary of Commerce, and the Secretary of the Treasury regarding such action;

(2) hold at least 1 public hearing within a reasonable time for the receipt of oral comment from the public regarding such a proposed identification;

(3) publish notice in the Federal Register—

(A) that such an identification is being considered;

(B) of the time and place of the hearing scheduled under paragraph (2); and

(C) inviting the submission within a reasonable time of written comment from the public; and

(4) take into account the information obtained under paragraphs (1), (2), and (3).

(d) REVOCATION OF IDENTIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may revoke the identification of any foreign industry and its host country under subsection (a) if information available to the Secretary indicates that such action is appropriate.

(2) REPORT OF SECRETARY.—No revocation under paragraph (1) may take effect earlier than the 60th day after the date on which the Secretary submits to the Congress a written report—

(A) stating that in the opinion of the Secretary the foreign industry and host country concerned do not utilize child labor in connection with products that are exported; and

(B) stating the facts on which such opinion is based and any other reason why the Secretary considers the revocation appropriate.

(3) PROCEDURE.—No revocation under paragraph (1) may take effect unless the Secretary—

(A) publishes notice in the Federal Register that such a revocation is under consideration and invites the submission within a reasonable time of oral and written comment from the public on the revocation; and

(B) takes into account the information received under subparagraph (A) before preparing the report required under paragraph (2).

(e) PUBLICATION.—The Secretary shall—

(1) promptly publish in the Federal Register—

(A) the name of each foreign industry and its host country identified under subsection (a);

(B) the text of the decision made under subsection (b)(2)(A) and a statement of the facts and reasons supporting the decision; and

(C) the name of each foreign industry and its host country with respect to which an identification has been revoked under subsection (d); and

(2) maintain and publish in the Federal Register a current list of all foreign industries and their respective host countries identified under subsection (a).

SEC. . PROHIBITION ON ENTRY.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), during the effective identification period for a foreign industry and its host country no article that is a product of that foreign industry may be entered into the customs territory of the United States.

(2) EXCEPTION.—Paragraph (1) shall not apply to the entry of an article—

(A) for which a certification that meets the requirements of subsection (b) is provided and the article, or the packaging in which it is offered for sale, contains, in accordance with regulations prescribed by the Secretary, a label stating that the article is not a product of child labor;

(B) that is entered under any subheading in subchapter IV or VI of chapter 98 of the Harmonized Tariff Schedule of the United States (relating to personal exemptions); or

(C) that was exported from the foreign industry and its host country and was en route to the United States before the first day of the effective identification period for such industry and its host country.

(b) CERTIFICATION THAT ARTICLE IS NOT A PRODUCT OF CHILD LABOR.—

(1) FORM AND CONTENT.—The Secretary shall prescribe the form and content of documentation, for submission in connection with the entry of an article, that satisfies the Secretary that the exporter of the article in the host country, and the importer of the article into the customs territory of the United States, have undertaken reasonable steps to ensure, to the extent practicable, that the article is not a product of child labor.

(2) REASONABLE STEPS.—For purposes of paragraph (1), ''reasonable steps'' include—

(A) in the case of the exporter of an article in the host country—

(i) having entered into a contract, with an organization described in paragraph (4) in that country, providing for the inspection of the foreign industry's facilities for the purpose of certifying that the article is not a product of child labor, and affixing a label, protected under the copyright or trademark laws of the host country, that contains such certification; and

(ii) having affixed to the article a label described in clause (i); and

(B) in the case of the importer of an article into the customs territory of the United States, having required the certification and label described in subparagraph (A) and setting forth the terms and conditions of the acquisition or provision of the imported article.

(3) WRITTEN EVIDENCE.—The documentation required by the Secretary under paragraph (1) shall include written evidence that the reasonable steps set forth in paragraph (2) have been taken.

(4) CERTIFYING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall compile and maintain a list of independent, internationally credible organizations, in each host country identified under section 5, that have been established for the purpose of—

(i) conducting inspections of foreign industries,

(ii) certifying that articles to be exported from that country are not products of child labor, and

(iii) labeling the articles in accordance with paragraph (2)(A).

(B) ORGANIZATION.—Each certifying organization shall consist of representatives of nongovernmental child welfare organizations, manufacturers, exporters, and neutral international organizations.

SEC. . PENALTIES.

(a) UNLAWFUL ACTS.—It shall be unlawful, during the effective identification period applicable to a foreign industry and its host country—

(1) to attempt to enter any article that is a product of that industry if the entry is prohibited under section 6(a)(1); or

(2) to violate any regulation prescribed under section 8.

(b) CIVIL PENALTY.—Any person who commits an unlawful act set forth in subsection (a) shall be liable for a civil penalty not to exceed $25,000.

(c) CRIMINAL PENALTY.—In addition to being liable for a civil penalty under subsection (b), any person who intentionally commits an unlawful act set forth in subsection (a) shall be, upon conviction, liable for a fine of not less than $10,000 and not more than $35,000, or imprisonment for 1 year, or both.

(d) CONSTRUCTION.—The unlawful acts set forth in subsection (a) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), including—

(1) the search, seizure, and forfeiture provisions;

(2) section 592 (relating to penalties for entry by fraud, gross negligence, or negligence); and

(3) section 619 (relating to compensation to informers).

SEC. . REGULATIONS.

The Secretary shall prescribe regulations to carry out the provisions of this Act.

SEC. . UNITED STATES SUPPORT FOR DEVELOPMENTAL ALTERNATIVES FOR UNDER AGE CHILD WORKERS.

In order to carry out section 2(c)(4), there is authorized to be appropriated to the President the sum of—

(1) $30,000,000 for each of fiscal years 2000 through 2004 for the United States contribution to the International Labor Organization for the activities of the International Program on the Elimination of Child Labor; and

(2) $100,000 for fiscal year 2000 for the United States contribution to the United Nations Commission on Human Rights for those activities relating to bonded child labor that are carried out by the Subcommittee and Working Group on Contemporary Forms of Slavery.

AMENDMENT NO. 2495

At the appropriate, insert the following new section:

SEC. ___. LIMITATIONS ON BENEFITS.

(a) IN GENERAL.— Nothwithstanding any other provision of law, no benefits under this Act shall be granted to any country (or to any designated zone in that country) that does not meet any effectively enforce the standards regarding child labor established by the ILO Convention (No. 182) for the Elimination of the Worst Forms of Child Labor.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act and annually thereafter, the President, after consultation with the Trade Policy Review Committee, shall submit a report to Congress on the enforcement of, and compliance with, the standards described in subsection (a).

BOXER AMENDMENT NO. 2496

(Ordered to lie on the table.)

Mrs. BOXER submitted an amendment intended to be proposed by her to the bill, H.R. 434, supra; as follows:

In section 113, add the following new subsection:

(d) CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN.—The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative to urge participants in the Forum to commit to taking all necessary steps to ensure ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) by the national legislatures of those nations that have not yet ratified the Convention.

HELMS AMENDMENTS NOS. 2497–2500

(Ordered to lie on the table.)

Mr. HELMS submitted four amendments intended to be proposed by him to the bill, H.R. 434, supra; as follows:

AMENDMENT NO. 2497

Nothing in this Act shall be construed as amending, superseding, or restricting in any way the authority of the President under the International Emergency Economic Powers Act.

AMENDMENT NO. 2498

Nothing in this Act shall be construed to permit the commercial export, with or without the benefit of subsidies, guarantees or United States credit, of agricultural commodities, medicine or medical supplies or equipment by United States persons or the United States government to the government of a country designated by the Secretary of State under Section 620A of the Foreign Assistance Act of 1961 (as amended) (22 U.S.C. 2371 et seq.) or any entity controlled by such government.

AMENDMENT NO. 2499

Strike section 2(a)(1) and insert the following:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given that term in section 402(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732(2)).

(B) EXCLUSION.—The term does not include any pesticide, fertilizer, or agricultural machinery or equipment.

Strike section 2(c)(1) and insert the following:

(1) against a foreign country with respect to which—

(A) Congress has declared war or enacted a law containing specific authorization for the use of force;

(B) the United States is involved in ongoing hostilities; or

(C) the President has proclaimed a state of national emergency; or

At the end of section 2(c)(2)(C), add the following:

(C) used or could be used to facilitate the development or production of a chemical or biological weapon or weapons of mass destruction.

Strike section (2)(d) and insert the following:

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibitions in effect on the date of enactment of this Act or prohibitions imposed pursuant to any future determination by the Secretary of State, under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), on providing, to the government, or a corporation, partnership, or entity owned or controlled by the government, of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

AMENDMENT NO. 2500

Strike section 2(a)(1) and insert the following:

(1) AGRICULTURAL COMMODITY.—

(A) IN GENERAL.—The term ''agricultural commodity'' has the meaning given that term in section 402(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732(2)).

(B) EXCLUSION.—The term does not include any pesticide, fertilizer, or agricultural machinery or equipment.

Strike section 2(c)(1) and insert the following:

(1) against a foreign country with respect to which—

(A) Congress has declared war or enacted a law containing specific authorization for the use of force;

(B) the United States is involved in ongoing hostilities; or

(C) the President has proclaimed a state of national emergency; or

At the end of section 2(c)(2)(C), add the following:

(C) used or could be used to facilitate the development or production of a chemical or biological weapon or weapons of mass destruction.

Strike section (2)(d) and insert the following:

(d) COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.—This section shall not affect the prohibitions in effect on the date of enactment of this Act or prohibitiions imposed pursuant to any future determination by the Secretary of State, under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), on providing, to the government, or a corporation, partnership, or entity owned or controlled by the government, of any country supporting international terrorism, United States Government assistance, including United States foreign assistance, United States export assistance, or any United States credits or credit guarantees.

HOLLINGS AMENDMENT NO. 2501

(Ordered to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following:

SEC. . LABOR AGREEMENT REQUIRED.

The benefits provided by the amendments made by this Act shall not become available to any country until—

(1) the President has negotiated with that country a side agreement concerning labor standards, similar to the North American Agreement on Labor Cooperation (as defined in section 532(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 3471(b)(2)); and

(2) submitted that agreement to the Congress.

HARKIN AMENDMENT NO. 2502

(Ordered to lie on the table.)

Mr. HARKIN submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the appropriate place, insert the following new section:

SEC. ___. GOODS MADE WITH FORCED OR INDENTURED LABOR.

(a) IN GENERAL.—Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended—

(1) in the second sentence, by striking ''; but in no case'' and all that follows to the end period; and

(2) by adding at the end the following new sentence: ''For purposes of this section, the term 'forced labor or/and indentured labor' includes forced or indentured child labor.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a)(1) applies to goods entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

(2) CHILD LABOR.—The amendment made by subsection (a)(2) takes effect on the date of enactment of this Act.

GRASSLEY AMENDMENT NO. 2503

(Ordered to lie on the table.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill, H.R. 434, supra; as follows:

At the end, insert the following new title:

TITLE VI—OTHER TRADE PROVISIONS

SEC. 601. PRESIDENTIAL DETERMINATION REGARDING THE FEASIBILITY AND DESIRABILITY OF NEGOTIATING FREE TRADE AGREEMENTS WITH ELIGIBLE COUNTRIES.

(a) DETERMINATION AND REPORT.—Not later than 6 months after the date of enactment of this Act and after receiving advice from the Advisory Committee for Trade Policy Negotiations established under section 135(b) of the Trade Act of 1974, the President shall—

(1) make a determination on the feasibility and desirability of commencing formal negotiations regarding a free trade agreement with an eligible Pacific Rim country or countries to which the report relates; and

(2) submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on that determination.

(b) FACTORS IN MAKING DETERMINATION.—In making a determination on the feasibility and desirability of establishing a free trade area between the United States and an eligible country, the President shall consider whether that country—

(1) is a member of the World Trade Organization;

(2) has expressed an interest in negotiating a bilateral free trade agreement with the United States;

(3) has pursued substantive trade liberalization and undertaken structural economic reforms in order to achieve an economy governed by market forces, fiscal restraint, and international trade disciplines and, as a result, has achieved a largely open economy;

(4) has demonstrated a broad affinity for United States trade policy objectives and initiatives;

(5) is an active participant in preparations of the General Council of the World Trade Organization for the 3d Ministerial Conference of the World Trade Organization which will be held in the United States from November 30 to December 3, 1999, and has demonstrated a commitment to United States objectives with respect to an accelerated negotiating round of the World Trade Organization;

(6) is working consistently to eliminate export performance requirements or local content requirements;

(7) seeks the harmonization of domestic and international standards in a manner that ensures transparency and nondiscrimination among the member economies of APEC;

(8) is increasing the economic opportunities available to small- and medium-sized businesses through deregulation;

(9) is working consistently to eliminate barriers to trade in services;

(10) provides national treatment for foreign direct investment;

(11) is working consistently to accommodate market access objectives of the United States;

(12) is working constructively to resolve trade disputes with the United States and displays a clear intent to continue to do so;

(13) is a country whose bilateral trade relationship with the United States will benefit from improved dispute settlement mechanisms; and

(14) is a country whose market for products and services of the United States will be significantly enhanced by eliminating substantially all tariff and nontariff barriers and structural impediments to trade.

(c) ELIGIBLE PACIFIC RIM COUNTRIES.—As used in this section:

(1) APEC.—The term ''APEC'' means the Asian Pacific Economic Cooperation Forum.

(2) ELIGIBLE PACIFIC RIM COUNTRY.—The term ''eligible Pacific Rim country'' means any country that is a WTO member (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501) and is a member economy of APEC.

LEGISLATION TO PROVIDE SUPPORT FOR CERTAIN INSTITUTES AND SCHOOLS

JEFFORDS AMENDMENT NO. 2504

Mr. HAGEL (for Mr. JEFFORDS) proposed an amendment to the bill (S. 440) to provide support for certain institutes and schools; as follows:

At the end, add the following:

Title V—Robert T. Stafford Public Policy Institute

SEC. 501. DEFINITIONS.

In this section:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Robert T. Stafford Public Policy Institute for the purpose of generating income for the support of authorized activities.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title.

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''institute'' means the Robert T. Stafford Public Policy Institute.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 502. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 505, the Secretary is authorized to award a grant in an amount of $5,000,000 to the Robert T. Stafford Public Policy Institute.

(b) APPLICATION.—No grant payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

SEC. 503. AUTHORIZED ACTIVITIES.

Funds appropriated under this title may be used—

(1) to further the knowledge and understanding of students of all ages about education, the environment, and public service;

(2) to increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the Unites States, and to promote public service as a career choice;

(3) to provide or support scholarships;

(4) to conduct educational, archival, or preservation activities;

(5) to construct or renovate library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute;

(6) to establish or increase an endowment fund for use in carrying out the programs of the Institute.

SEC. 504. ENDOWMENT FUND.

(a) MANAGEMENT.—An endowment fund created with funds authorized under this title shall be managed in accordance with the standard endowment policies established by the Institute.

(b) USE OF ENDOWMENT FUND INCOME.—Endowment fund income earned (on or after the date of enactment of this title) may be used to support the activities authorized under section 503.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000. Funds appropriated under this section shall remain available until expended.

NOTICE OF HEARING

SUBCOMMITTEE ON INVESTIGATIONS

Ms. COLLINS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings entitled ''Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities.'' The upcoming hearings will examine the vulnerabilities of U.S. private banks to money laundering and the role of U.S. banks in the growing and competitive private banking industry, their services and clientele, and their anti-money laundering efforts. Witnesses will include private bank personnel, bank regulators, and banking and law enforcement experts.

The hearings will take place on Tuesday, November 9, 1999, at 9:30 a.m., and Wednesday, November 10, 1999, at 1:00 p.m., in Room 628 of the Dirksen Senate Office Building. For further information, please contact Linda Gustitus of the Subcommittee's Minority staff at 224–9505.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, November 2, 1999, to conduct a hearing on ''The World Trade Organization, its Seattle Ministerial, and the Millennium Round.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 2, 1999 at 10:00 AM and at 2:00 PM to hold two Nomination Hearings.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on Tuesday, November 2, 1999 at 10:00 a.m., in The President's Room, The Capitol, to conduct a mark-up.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet on Tuesday, November 2, 1999 at 10:30 a.m., in Dirksen Room 226, to conduct a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs be authorized to meet during the session of the Senate on Tuesday, November 2, 1999 at 3:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FOREST AND PUBLIC LAND MANAGEMENT

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Subcommittee on Forest and Public Land Management of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, November 2, for purposes of conducting a Subcommittee on Forests and Public Lands Management hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to receive testimony on the recent announcement by President Clinton to review approximateley 40 million acres of national forest lands for increased protection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE PHONY BATTLE AGAINST 'ISOLATIONISM'

• Mr. KYL. Mr. President, Friday's Washington Post contained an excellent op-ed piece by columnist Charles Krathammer arguing that, contrary to claims now being made by senior Clinton Administration officials, the recent defeat of the Comprehensive Test Bank Treaty is not evidence of an emerging isolationist trend in the Republican party. I ask that the column be printed in the RECORD.

The material follows:

THE PHONY BATTLE AGAINST 'ISOLATIONISM'

After seven years, the big foreign policy thinkers in the Clinton administration are convinced they have come up with a big idea. Having spent the better part of a decade meandering through the world without a hint of strategy—wading compassless in and out of swamps from Somalia to Haiti to Yugoslavia—they have finally found their theme.

National Security Adviser Sandy Berger unveiled it in a speech to the Council on Foreign Relations last week. In true Clintonian fashion, Berger turned personal pique over the rejection of the test ban treaty into a grand idea: The Democrats are internationalists, their opponents are isolationists.

First of all, it ill behooves Democrats to call anybody isolationists. This is the party that in 1972 committed itself to ''Come home, America.'' That cut off funds to South Vietnam. That fought bitterly to cut off aid to the Nicaraguan contras and the pro-America government of El Salvador. That mindlessly called for a nuclear freeze. That voted against the Gulf War.

They prevailed in Vietnam but thankfully were defeated on everything else. The contras were kept alive, forcing the Sandinistas to agree to free elections. Nicaragua is now a democracy.

El Salvador was supported against communist guerrillas. It, too, is now a democracy.

President Reagan faced down the freeze and succeeded in getting Soviet withdrawal of their SS–20 nukes from Europe, the abolition of multiwarhead missiles, and the first nuclear arms reduction in history.

And the Gulf War was fought, preventing Saddam from becoming the nuclear-armed hegemon of the Persian Gulf.

''The internationalist consensus that prevailed in this country for more than 50 years,'' claimed Berger, ''increasingly is being challenged by a new isolationism, heard and felt particularly in the Congress.''

Internationalist consensus? For the last 20 years of the Cold War, after the Democrats lost their nerve over Vietnam, there was no internationalist consensus. Internationalism was the property of the Republican Party and of a few brave Democratic dissidents led by Sen. Henry Jackson—who were utterly shut out of power when the Democrats won the White House.

Berger's revisionism is not restricted to the Reagan and Bush years. He can't seem to remember the Clinton years either. He says of the Republicans, that ''since the Cold War ended, the proponents of this [isolationist] vision have been nostalgic for the good old days when friends were friends and enemies were enemies.''

Cold War nostalgia? It was Bill Clinton who early in his presidency said laughingly, ''Gosh, I miss the Cold War.'' Then seriously, ''We had an intellectually coherent thing.

The American people knew what the rules were.''

What exactly is the vision that Berger has to offer? What does the Clinton foreign policy stand for?

Engagement. Hence the speech's title, ''American Power—Hegemony, Isolation or Engagement.'' Or as he spelled it out: ''To keep America engaged in a way that will benefit our people and all people.''

Has there ever been a more mushy, meaningless choice of strategy? Engagement can mean anything. It can mean engagement as a supplicant, as a competitor, as an ally, as an adversary, as a neutral arbiter. Wake up on a Wednesday and pick your meaning.

The very emptiness of the term captures perfectly the essence of Clinton foreign policy. It is glorified ad hocism.

It lurches from one civil war to another with no coherent logic and with little regard for American national interest—finally proclaiming, while doing a victory jig over Kosovo, a Clinton Doctrine pledging America to stop ethnic cleansing anywhere.

It lurches from one multilateral treaty to another—from the Chemical Warfare Convention that even its proponents admit is unverifiable to a test ban treaty that is not just unverifiable but disarming—in the belief that American security can be founded on promises and paper.

If there is a thread connecting these meanderings, it is a woolly utopianism that turns a genuinely felt humanitarianism and a near-mystical belief in the power of parchment into the foreign policy of a superpower.

The choice of engagement as the motif of Clinton foreign policy is a self-confession of confusion. Of course we are engaged in the world. The question is: What kind of engagement?

Engagement that relies on the fictional ''international community,'' the powerless United Nations or the recalcitrant Security Council (where governments hostile to our interests can veto us at will) to legitimatize American action? Or engagement guided by American national interests and security needs?

Engagement that squanders American power and treasure on peacekeeping? Or engagement that concentrates our finite resources on potential warfighting in vital areas such as the Persian Gulf, the Korean peninsula and the Taiwan Strait?

Berger cannot seem to tell the difference between isolationism and realism. Which is the fundamental reason for the rudderless mess that is Clinton foreign policy.●

TRIBUTE TO HELEN WESTBROOK

● Mr. KENNEDY. Mr. President, I would like to take a few moments to recognize an outstanding individual who will soon be retiring from public service. Helen L. Westbrook currently works in the Office of the Deputy Under Secretary of the National Oceanic and Atmospheric Administration. In December, she will complete a career that has spanned many years of distinguished service to our country.

This is a special occasion for me and the Kennedy family, as Helen is truly one of our own. In 1955, as a Senator, my brother John F. Kennedy visited Chicopee, Massachusetts, and delivered an address about a recent visit he had made to Poland and Eastern Europe. Like many other young Americans of that time, Helen heard and heeded my brother's call to public service. She moved to Washington, D.C., and in January 1956, she began work as a secretary in my brother's Senate office. Following the 1960 election, Jack asked Helen to join his White House Staff, and she served as a Secretarial Assistant in the Office of the President until January 1963.

Helen then decided she wanted to gain experience working overseas, and for the next year and a half, she served in our U.S. Embassy in Rome She then returned to America, and at the request of Jackie Kennedy, she came back to work with our family. For the next few years, she served as an assistant to Jackie in New York City. She watched Caroline and John F. Kennedy, Jr. grow up, and went on to marry and raise a family of her own.

In 1992, Helen rejoined the Federal Government and started a career with NOAA. She has been a good friend to Massachusetts and has called for a balanced approach to fisheries management. She has been a skillful advocate for assistance to New England fishermen and coastal communities, and all of us who know her are proud of her achievements and her friendship.

Helen Westbrook is a kind, thoughtful person who truly cares about people. She has brought professionalism, wisdom and dedication to each position that she has held. She is a valued and loyal friend of the Kennedy family.

We don't have enough Helen Westbrooks in government and in the world. She is a shining example of the wonderful people who answered President Kennedy's call to serve their country. I'm proud of her contribution to public service, and I wish her well in her well-deserved retirement.●

CONFERENCE REPORT FOR THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS BILL FOR THE FISCAL YEAR 2000

● Mr. MCCAIN. Mr. President, on October 20, 1999, the Senate passed the conference report for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies appropriations bill for fiscal year 2000. I thank the conferees for their hard work in putting forth this legislation which provides federal funding for fighting crime, enhancing drug enforcement, and responding to threats of terrorism. This bill also addresses the shortcomings of the immigration process, funds the operation of the judicial system, facilitates commerce throughout the United States, and fulfills the needs of the State Department and various other agencies.

For many years, I have tried to cut wasteful and unnecessary spending from the annual appropriations bills—with only limited success, I must admit. Nonetheless, I will continue my fight to curb wasteful pork-barrel spending, and I regret that I must again come forward this year to object to the millions of unrequested, low-priority, wasteful spending in this conference report. This legislation includes $535 million in pork-barrel spending. This is an unacceptable amount of money to spend on low-priority, unrequested, wasteful projects. Congress must curb its appetite for such unbridled spending.

Pork-barrel spending today not only robs well-deserving programs of much needed funds, it also jeopardizes social security reform, potential tax cuts, and our fiscal well-being into the next century.

The multitude of earmarks buried in this proposal will further burden the American taxpayers. While the amounts associated with each individual earmark may not seem extravagant, taken together, they represent a serious diversion of taxpayers' hard-earned dollars to low priority programs at the expense of numerous programs that have undergone the appropriate merit-based selection process. Congress and the American public must be made aware of the magnitude of wasteful spending endorsed by this body.

For the Department of Commerce, there is $400,000 for swordfish research. For the Department of Justice, there is $1 million for the Nevada National Judicial College. For the Department of State, there is $12.5 million for the East-West Center in Hawaii, and for the Small Business Administration, there is $200,000 for Rural Enterprises, Inc., in Durant, Oklahoma. I have compiled a list on my Senate website of these examples and other numerous add-ons and earmarks in the report.

Mr. President, we must continue to work to cut unnecessary and wasteful spending so we can begin to pay down our debt and save billions in interest payments. We have an obligation to ensure that Congress spends taxpayers' hard-earned dollars prudently to protect our balanced budget and to protect the projected budget surpluses. The American public cannot understand why we continue to earmark these huge amounts of money to locality specific special interests at a time when we are trying to cut the cost of government and return more dollars to the people.

Mr. President, it is a sad commentary on the state of politics today that the Congress cannot curb its appetite to earmark funds for programs that are obviously wasteful, unnecessary, or unfair. Unfortunately, however, Members of Congress have demonstrated time and again their willingness to fund programs that serve their narrowly tailored interest at the expense of the national interest.●

DOWNRIVER GUIDANCE CLINIC TRIBUTE

● Mr. ABRAHAM. Mr. President, It is my great pleasure to recognize and honor the Downriver Guidance Clinic as they celebrate their First Downriver Guidance Clinic Week November 7 through November 13, 1999.

For forty-one years the Downriver Guidance Clinic has been at the forefront of providing exceptional health care, mental health services and support to those people who are in need. The Downriver Guidance Clinic has enhanced the quality of life for children, adults and families in the Downriver community. Their programs have built foundations of support for children with behavioral problems, first time parents, teenage mothers, and adults who need help coping with unexpected changes in life.

What is truly remarkable about the Downriver Guidance Center are the innovative and progressive programs they provide. The Opportunity Center combines traditional therapy, volunteer mentoring, and other activities to assist young people who need extra help interacting with parents, teachers and peers. Their Center for Excellence focuses on evaluating and assessing programs as a means for improved services. The Downriver Guidance Center programs continue to reach out to the community by providing employment programs that help ease chronically unemployed people into the workforce. The Center also provides an early childhood development which encourages good emotional and physical health ensuring that children enter school ready to learn.

The accomplishments and work of the Downriver Guidance Center are to be commended. Their impact on the Downriver Community of the future is immeasurable. I applaud the Downriver Guidance Center for all the help they give others as they strive to meet the ever changing needs of the community they serve.●

MEASURE READ THE FIRST TIME—H.R. 1883

Mr. HAGEL. Mr. President, on behalf of the leader, I understand that H.R. 1883 is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative assistant read as follows:

A bill (H.R. 1883) to provide for application of measures to foreign persons who transfer to Iran certain goods, services, or technology, and for other purposes.

Mr. HAGEL. Mr. President, I now ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk.

AUTHORIZING PHOTOGRAPHS IN THE SENATE CHAMBER

Mr. HAGEL. Mr. President, I ask unanimous consent the Senate now proceed to the immediate consideration of S. Res. 214 submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 214) authorizing the taking of photographs in the Chamber of the U.S. Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 214) was agreed to, as follows:

S. RES. 214

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting photographs to be taken between the first and second sessions of the 106th Congress in order to allow the Senate Commission on Art to carry out its responsibilities to publish a Senate document containing works of art, historical objects, and exhibits within the Senate Wing.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements to carry out this resolution.

AUTHORIZING PRINTING OF ''CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861''

AUTHORIZING PRINTING OF ''THE U.S. CAPITOL: A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS''

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of Senate Concurrent Resolution 66 and Senate Concurrent Resolution 67, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the concurrent resolutions by title.

The legislative assistant read as follows:

A concurrent resolution (S. Con. Res. 66) to authorize the printing of ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861.''

A concurrent resolution (S. Con. Res. 67) to authorize the printing of ''The United States Capitol: A Chronicle of Construction, Design, and Politics.''

There being no objection, the Senator proceeded to consider the concurrent resolutions.

Mr. HAGEL. Mr. President, I ask unanimous consent that the concurrent resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table, with the above all occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolutions (S. Con. Res. 66 and S. Con. Res. 67) were agreed to.

The preambles were agreed to.

The concurrent resolutions, with their preambles, read as follows:

S. CON. RES. 66

Whereas November 17, 2000, will mark the 200th anniversary of the occupation of the United States Capitol by the Senate and House of Representatives;

Whereas the story of the design and construction of the United States Capitol deserves wider attention; and

Whereas since 1991, Congress has supported a recently completed project to translate the previously inaccessible and richly detailed shorthand journals of Captain Montgomery C. Meigs, the mid-nineteenth-century engineer responsible for construction of the Capitol dome and Senate and House of Representatives extensions: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "CAPITOL BUILDER: THE SHORTHAND JOURNALS OF CAPTAIN MONTGOMERY C. MEIGS, 1853–1861".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861'', prepared under the direction of the Secretary of the Senate, in consultation with the Clerk of the House of Representatives and the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate and the Clerk of the House of Representatives; or

(2) a number of copies that does not have a total production and printing cost of more than $31,500.

S. CON. RES. 67

Whereas the 200th anniversary of the establishment of the seat of government in the District of Columbia will be observed in the year 2000;

Whereas November 17, 2000, will mark the bicentennial of the occupation of the United States Capitol by the Senate and the House of Representatives; and

Whereas the story of the design and construction of the United States Capitol deserves wider attention: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PRINTING OF "THE UNITED STATES CAPITOL: A CHRONICLE OF CONSTRUCTION, DESIGN, AND POLITICS".

(a) IN GENERAL.—There shall be printed as a Senate document the book entitled ''The United States Capitol: A Chronicle of Construction, Design, and Politics'', prepared by the Architect of the Capitol.

(b) SPECIFICATIONS.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) NUMBER OF COPIES.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 6,500 copies for the use of the Senate, the House of Representatives, and the Architect of the Capitol, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $143,000.

MAKING CHANGES TO SENATE COMMITTEES

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 215, submitted earlier by Senator LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative assistant read as follows:

A resolution (S. Res. 215) making changes to Senate committees for the 106th Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAGEL. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 215) was agreed to, as follows:

S. RES. 215

Resolved, That the following change shall be effective on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Environment and Public Works: Mr. SMITH of New Hampshire, Chairman.

Mr. HAGEL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAGEL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DUGGER MOUNTAIN WILDERNESS ACT OF 1999

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1843, introduced earlier today by Senator SESSIONS.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1843) to designate certain Federal land in the Talladega National Forest, Alabama, as the ''Dugger Mountain Wilderness.''

There being no objection, the Senate proceeded to consider the bill.

Mr. HAGEL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1843) was read the third time and passed, as follows:

S. 1843

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 ''Dugger Mountain Wilderness Act of 1999''.

SEC. 2. DESIGNATION OF DUGGER MOUNTAIN WILDERNESS, ALABAMA.

(a) DESIGNATION.—There is designated as wilderness and as a component of the National Wilderness Preservation System, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), certain Federal land in the Talladega National Forest, Alabama, comprising approximately 9,200 acres, as generally depicted on the map entitled ''Proposed Dugger Mountain Wilderness'', dated July 2, 1999, to be known as the ''Dugger Mountain Wilderness''.

(b) MAP AND DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture (referred to in this Act as the ''Secretary'') shall submit to Congress a map and description of the boundaries of the Dugger Mountain Wilderness.

(2) FORCE AND EFFECT.—The map and description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and description.

(3) PUBLIC AVAILABILITY.—A copy of the map and description shall be on file and available for public inspection in the office of—

(A) the Chief of the Forest Service; and

(B) the Supervisor of National Forest System land located in the State of Alabama.

(c) MANAGEMENT.—

(1) IN GENERAL.—Subject to valid existing rights, land designated as wilderness by this Act shall be managed by the Secretary in accordance with the applicable provisions of the Wilderness Act (16 U.S.C. 1131 et seq.).

(2) EFFECTIVE DATE EXCEPTION.—With respect to the Dugger Mountain Wilderness, any reference in the Wilderness Act (16 U.S.C. 1131 et seq.) to the effective date of that Act shall be considered to be a reference to the date of enactment of this Act.

(d) TREATMENT OF DUGGER MOUNTAIN FIRE TOWER.—

(1) IN GENERAL.—Not later 2 years after the date of enactment of this Act, the Forest Service shall disassemble and remove from the Dugger Mountain Wilderness the Dugger Mountain fire tower (including any supporting structures).

(2) EQUIPMENT.—The Forest Service may use ground-based mechanical and motorized equipment to carry out paragraph (1).

(3) FIRE TOWER ROAD.—

(A) IN GENERAL.—The road to the fire tower shall be open to motorized vehicles during the period required to carry out paragraph (1) only for the purpose of removing the tower (including any supporting structures).

(B) PERMANENT CLOSURE.—After the period referred to in subparagraph (A), the road to the fire tower shall be permanently closed to motorized use.

(4) APPLICABLE LAW.—The Forest Service shall carry out paragraph (1) in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.).

CHILD SUPPORT MISCELLANEOUS AMENDMENTS OF 1999

Mr. HAGEL. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. 1844 introduced earlier today by Senators ROTH, MOYNIHAN, and others.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1844) to amend Part D of title IV of the Social Security Act to provide for an alternative penalty procedure with respect to compliance with requirements for a State disbursement unit.

There being no objection, the Senate proceeded to consider the bill.

Mr. ROTH. Mr. President, I rise today to introduce the Child Support Miscellaneous Amendments of 1999. This legislation is co-sponsored by Senators MOYNIHAN, VOINOVICH, FEINSTEIN, ROBERTS, BOXER, ENZI, THOMAS, GRAMM, and KERREY.

This bill would provide a more appropriate penalty for States that have not met the deadline for establishing a State Disbursement Unit (SDU). The 1996 welfare reform law (P. L. 104–193) made a number of important changes to the nation's child support system, including a requirement that States establish and operate a State Disbursement Unit (SDU) to receive child support payments and distribute the money in accord with State child support distribution rules. In general, States had until October 1st of this year to establish an SDU.

States that have not met this deadline will lose all Federal funds for the administration of their child support enforcement programs, and also may be in jeopardy of losing Temporary Assistance for Needy Families (TANF) funds.

Although most States have met the deadline, for various reasons about seven States may not. This bill provides that States may apply for an alternative smaller, graduated penalty, as described in the ''Description of the Child Support Miscellaneous Amendments of 1999.''

Mr. President, I ask unanimous consent that a description of the bill be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. ROTH. Moreover, this legislation provides that any penalty will be waived if a State establishes an SDU within six months of the original deadline, that is, by April 1, 2000. If a State misses the April 1st date but establishes an SDU within a year of the deadline, that is, by September 30, 2000, the penalty shall be limited to one percent of child support funds for the fiscal year.

Mr. President, in my view this alternative penalty system is more suitable for technology-related program requirements, where States may be moving towards compliance but need additional time. Indeed, the proposed legislation follows similar changes made last year in providing an alternative penalty for States that did not meet the deadline for establishing an automated statewide data system for child support. In this regard, the proposed legislation would provide for a single penalty for a State that does not meet either the automated data system or SDU requirements.

The Congressional Budget Office has found this legislation has no cost.

I urge the support of all Senators.

EXHIBIT NO. 1

DESCRIPTION OF THE CHILD SUPPORT MISCELLANEOUS AMENDMENTS OF 1999

PRESENT LAW

The 1996 welfare reform law (P.L. 104–193) required States to establish and operate a State Disbursement Unit (SDU) to receive child support payments and distribute the money in accord with State child support distribution rules. The SDU may be operated by a single State agency, two of more State agencies under a regional cooperative agreement, or by a contractor responsible to the State agency. Alternatively, the SDU may be established by linking local disbursement units, such as counties, under an agreement with the Secretary of Health and Human Services. States that processed receipt of child support payments through their courts at the time of enactment of the 1996 welfare reform law enacted had until October 1, 1999, to operate an SDU. States that did not process child support payments through the courts were required to be operating an SDU by October 1, 1998.

The penalty for not meeting the SDU requirement is the loss of all Federal child support payments. States receive Federal funds for child support enforcement administration according to a matching formula. Furthermore, if a state cannot certify that it has an approved child support enforcement plan—including an SDU—when it renews its Temporary Assistance for Needy Families (TANF) plan (i.e., every 27 months), it is not eligible for TANF funds.

EXPLANATION OF PROVISION

States not operating an approved State Disbursement Unit (SDU) by October 1, 1999, may apply to the Secretary for an alternative penalty. To qualify for the alternative penalty, the Secretary must find that the State has made and is continuing to make a good faith effort to comply, and the State must submit a corrective plan by April 1, 2000. If these conditions are fulfilled, the Secretary must not disapprove the State child support enforcement plan. Instead, the Secretary must reduce the amount the State would otherwise have received in Federal child support payments by the alternative penalty amount for the fiscal year.

The alternative penalty amount is equal to: 4 percent of the penalty base in the first fiscal year; 8 percent in the second fiscal year; 16 percent in the third fiscal year; 25 percent in the fourth fiscal year; and 30 percent in the fifth and subsequent fiscal years. The penalty base is defined as the Federal administrative reimbursement for child support enforcement (i.e., the 66 percent Federal matching funds) that otherwise would have been payable to the State in the previous fiscal year.

If a State that is subject to a penalty has an approved SDU on or before April 1, 2000, the Secretary shall waive the penalty. If a State that is subject to a penalty achieves compliance after April 1, 2000, and on or before September 30, 2000, the penalty amount shall be 1 percent of the penalty base.

In addition, the Secretary may not impose a penalty against a State for a fiscal year for which the State has already been penalized for noncompliance with respect to the automated data processing system requirement, as provided under Section 455 of the Social Security Act.

The loss of Temporary Assistance to Needy Families block grant funds by a State for failure to substantially comply with one or more of the IV-D requirements is not applicable with respect to the SDU requirements (or the automated systems requirement).

EFFECTIVE DATE

October 1, 1999.

Mr. MOYNIHAN. Mr. President, I rise today in support of this technical, yet necessary, legislation, the Child Support Miscellaneous Amendments of 1999. We live in a nation with an ever-increasing number of single mothers. About one-third (32.8%) of all children born in the United States last year were born outside of marriage. At a minimum, we need a comprehensive and effective child support system to see to it that non-custodial parents—often fathers—provide for these children.

Maintaining a central unit for disbursing and collecting child support payments in each state is essential. This eases the burden on the business community, whose cooperation we need. Unfortunately, a handful of states appear to have missed the statutory deadline for having such a central unit in operation. Under current law, all Federal funding for the child support programs in these states will be withdrawn.

This is too harsh of a penalty. States are missing the deadline because they are simply behind schedule in their procurement effort or because of a broader failing in the computer systems undergirding their child support programs. This legislation would provide an alternative, more modest, financial penalty for those states which are late in meeting the deadline. For those states suffering a general failure of their child support computer systems it would not impose a penalty because those states have already been penalized.

I thank the Chairman for his work on this matter, simple one of reasonable program administration.

Mr. BAYH. Mr. President, today I rise as an original cosponsor of the Child Support Miscellaneous Amendments of 1999. This bill will provide states, such as Indiana with additional time to either obtain a waiver from the Department of Health and Human Services or comply with the state disbursement unit requirement without being penalized. It is important that states are provided with sufficient time to determine what system will allow them to collect and disburse child support payments most efficiently.

For many states the most economical and administratively efficient means of delivering and collecting child support payments is to comply with the requirement and create a central state disbursement unit. However, the Department of Health and Human Services has recognized some exceptions to that general rule and granted those states a waiver. The State of Indiana has applied for a waiver but is awaiting the Secretary's determination of whether or not to grant the waiver request. This legislation will allow Indiana, and the other states in a similar predicament, the time they need to determine what system works best for them. In addition, the penalty these states face will be reduced. States will not be in jeopardy of losing all of their administrative dollars for child support collection.

Without this legislation, the State of Indiana could lose as much as $33.5 million, undermining the state's ability to collect child support. While child support collection affects the budgets of the Federal and State Governments, it most importantly affects the children for whom it is intended. The system was designed so children would at least have the economic support of both their parents.

It is important that Congress continue to find ways to collect child support owed to children from noncustodial parents. Child support administrative dollars help states accomplish that goal.

There are other steps Congress can take to reconnect noncustodial parents with their children and encourage them to pay child support. As we continue to discuss the intricacies of child support collection, the need for a child to have the emotional and financial support of both parents should be incorporated into the discussion. I look forward to having that discussion in the near future.

I thank Senator ROTH and Senator MOYNIHAN for their leadership on this issue and for acknowledging the need to provide states with more time to implement a child support collection and disbursement system that works. I urge my colleagues to support this legislation.

Mr. HAGEL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1844) was read the third time and passed, as follows:

S. 1844

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 ''Child Support Miscellaneous Amendments of 1999''.

SEC. 2. ALTERNATIVE PENALTY PROCEDURE RELATING TO COMPLIANCE WITH REQUIREMENTS RELATING TO STATE DISBURSEMENT UNIT.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

''(5)(A)(i) If—

''(I) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with subparagraphs (A) and (B)(i) of section 454(27), and that the State has made and is continuing to make a good faith effort to so comply; and

''(II) the State has submitted to the Secretary, not later than April 1, 2000, a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise

payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

''(ii) All failures of a State during a fiscal year to comply with any of the requirements of section 454B shall be considered a single failure of the State to comply with section 454(27)(A) during the fiscal year for purposes of this paragraph.

''(B) In this paragraph:

''(i) The term 'penalty amount' means, with respect to a failure of a State to comply with subparagraphs (A) and (B)(i) of section 454(27)—

''(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs (regardless of whether a penalty is imposed in that fiscal year under this paragraph with respect to the failure), except as provided in subparagraph (C)(ii);

''(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

''(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year;

''(IV) 25 percent of the penalty base, in the case of the 4th such fiscal year; or

''(V) 30 percent of the penalty base, in the case of the 5th or any subsequent such fiscal year.

''(ii) The term 'penalty base' means, with respect to a failure of a State to comply with subparagraphs (A) and (B)(i) of section 454(27) during a fiscal year, the amount other wise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

''(C)(i) The Secretary shall waive all penalties imposed against a State under this paragraph for any failure of the State to comply with subparagraphs (A) and (B)(i) of section 454(27) if the Secretary determines that, before April 1, 2000, the State has achieved such compliance.

''(ii) If a State with respect to which a reduction is required to be made under this paragraph with respect to a failure to comply with subparagraphs (A) and (B)(i) of section 454(27) achieves compliance with such section on or after April 1, 2000, and on or before September 30, 2000, then the penalty amount applicable to the State shall be 1 percent of the penalty base with respect to the failure involved.

''(D) The Secretary may not impose a penalty under this paragraph against a State for a fiscal year for which the amount otherwise payable to the State under paragraph (1)(A) of this subsection is reduced under paragraph (4) for failure to comply with section 454(24)(A).''.

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by striking ''section 454(24)'' and inserting ''paragraph (24) or (27)(A) of section 454''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1999.

PROVIDING SUPPORT FOR CERTAIN INSTITUTES AND SCHOOLS

Mr. HAGEL. Mr. President, I ask unanimous consent that S. 440 be discharged from the HELP Committee and, further, that the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 440) to provide support for certain institutes and schools.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2504

(Purpose: To support the Robert T. Stafford Public Policy Institute)

Mr. HAGEL. Mr. President, Senator JEFFORDS has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. HAGEL] for Mr. JEFFORDS, proposes an amendment numbered 2504.

The amendment is as follows:

At the end add the following:

TITLE V—ROBERT T. STAFFORD PUBLIC POLICY INSTITUTE

SEC. 501. DEFINITIONS.

In this section:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Robert T. Stafford Public Policy Institute for the purpose of generating income for the support of authorized activities.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title.

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''institute'' means the Robert T. Stafford Public Policy Institute.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 502. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 505, the Secretary is authorized to award a grant in an amount of $5,000,000 to the Robert T. Stafford Public Policy Institute.

(b) APPLICATION.—No grant payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

SEC. 503. AUTHORIZED ACTIVITIES.

Funds appropriated under this title may be used—

(1) to further the knowledge and understanding of students of all ages about education, the environment, and public service;

(2) to increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice;

(3) to provide or support scholarships;

(4) to conduct educational, archival, or preservation activities;

(5) to construct or renovate library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute;

(6) to establish or increase an endowment fund for use in carrying out the programs of the Institute.

SEC. 504. ENDOWMENT FUND.

(a) MANAGEMENT.—An endowment fund created with funds authorized under this title shall be managed in accordance with the standard endowment policies established by the Institute.

(b) USE OF ENDOWMENT FUND INCOME.—Endowment fund income earned (on or after the date of enactment of this title) may be used to support the activities authorized under section 503.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000. Funds appropriated under this section shall remain available until expended.

Mr. HAGEL. Mr. President, I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2504) was agreed to.

The bill (S. 440), as amended, was read the third time and passed, as follows:

S. 440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—HOWARD BAKER SCHOOL OF GOVERNMENT

SEC. 101. DEFINITIONS.

In this title:

(1) BOARD.—The term ''Board'' means the Board of Advisors established under section 104.

(2) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University of Tennessee in Knoxville, Tennessee, for the purpose of generating income for the support of the School.

(3) SCHOOL.—The term ''School'' means the Howard Baker School of Government established under this title.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(5) UNIVERSITY.—The term ''University'' means the University of Tennessee in Knoxville, Tennessee.

SEC. 102. HOWARD BAKER SCHOOL OF GOVERNMENT.

From the funds authorized to be appropriated under section 106, the Secretary is authorized to award a grant to the University for the establishment of an endowment fund to support the Howard Baker School of Government at the University of Tennessee in Knoxville, Tennessee.

SEC. 103. DUTIES.

In order to receive a grant under this title, the University shall establish the School. The School shall have the following duties:

(1) To establish a professorship to improve teaching and research related to, enhance the curriculum of, and further the knowledge and understanding of, the study of democratic institutions, including aspects of regional planning, public administration, and public policy.

(2) To establish a lecture series to increase the knowledge and awareness of the major public issues of the day in order to enhance informed citizen participation in public affairs.

(3) To establish a fellowship program for students of government, planning, public administration, or public policy who have demonstrated a commitment and an interest in pursuing a career in public affairs.

(4) To provide appropriate library materials and appropriate research and instructional equipment for use in carrying out academic and public service programs, and to enhance the existing United States Presidential and public official manuscript collections.

(5) To support the professional development of elected officials at all levels of government.

SEC. 104. ADMINISTRATION.

(a) BOARD OF ADVISORS.—

(1) IN GENERAL.—The School shall operate with the advice and guidance of a Board of Advisors consisting of 13 individuals appointed by the Vice Chancellor for Academic Affairs of the University.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)—

(A) 5 shall represent the University;

(B) 2 shall represent Howard Baker, his family, or a designee thereof;

(C) 5 shall be representative of business or government; and

(D) 1 shall be the Governor of Tennessee, or the Governor's designee.

(3) EX OFFICIO MEMBERS.—The Vice Chancellor for Academic Affairs and the Dean of the College of Arts and Sciences at the University shall serve as an ex officio member of the Board.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The Chancellor, with the concurrence of the Vice Chancellor for Academic Affairs, of the University shall designate 1 of the individuals first appointed to the Board under subsection (a) as the Chairperson of the Board. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENTS.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1) or the term of the Chairperson elected under this paragraph, the members of the Board shall elect a Chairperson of the Board from among the members of the Board.

SEC. 105. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the University of Tennessee System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the School under section 103.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be available for expenditure by the University for purposes consistent with section 103, as recommended by the Board. The Board shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $10,000,000. Funds appropriated under this section shall remain available until expended.

TITLE II—JOHN GLENN INSTITUTE FOR PUBLIC SERVICE AND PUBLIC POLICY

SEC. 201. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 202(d).

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''Institute'' means the John Glenn Institute for Public Service and Public Policy described in section 202.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(6) UNIVERSITY.—The term ''University'' means the Ohio State University at Columbus, Ohio.

SEC. 202. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 206, the Secretary is authorized to award a grant to the Ohio State University for the establishment of an endowment fund to support the John Glenn Institute for Public Service and Public Policy. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) PURPOSES.—The Institute shall have the following purposes:

(1) To sponsor classes, internships, community service activities, and research projects to stimulate student participation in public service, in order to foster America's next generation of leaders.

(2) To conduct scholarly research in conjunction with public officials on significant issues facing society and to share the results of such research with decisionmakers and legislators as the decisionmakers and legislators address such issues.

(3) To offer opportunities to attend seminars on such topics as budgeting and finance, ethics, personnel management, policy evaluations, and regulatory issues that are designed to assist public officials in learning more about the political process and to expand the organizational skills and policymaking abilities of such officials.

(4) To educate the general public by sponsoring national conferences, seminars, publications, and forums on important public issues.

(5) To provide access to Senator John Glenn's extensive collection of papers, policy decisions, and memorabilia, enabling scholars at all levels to study the Senator's work.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 203. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in accordance with the University's investment policy approved by the Ohio State University Board of Trustees.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 204. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 202(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 205. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 204, except as provided in section 202(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 203; or

(3) fails to account properly to the Secretary, or the General Accounting Office if properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be prescribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $10,000,000. Funds appropriated under this section shall remain available until expended.

TITLE III—OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES

SEC. 301. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by Portland State University for the purpose of generating income for the support of the Institute.

(2) INSTITUTE.—The term ''Institute'' means the Oregon Institute of Public Service and Constitutional Studies established under this title.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 302. OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES.

From the funds appropriated under section 306, the Secretary is authorized to award a grant to Portland State University at Portland, Oregon, for the establishment of an endowment fund to support the Oregon Institute of Public Service and Constitutional Studies at the Mark O. Hatfield School of Government at Portland State University.

SEC. 303. DUTIES.

In order to receive a grant under this title the Portland State University shall establish the Institute. The Institute shall have the following duties:

(1) To generate resources, improve teaching, enhance curriculum development, and further the knowledge and understanding of students of all ages about public service, the United States Government, and the Constitution of the United States of America.

(2) To increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice.

(3) To establish a Mark O. Hatfield Fellows program for students of government, public policy, public health, education, or law who have demonstrated a commitment to public service through volunteer activities, research projects, or employment.

(4) To create library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute.

(5) To support the professional development of elected officials at all levels of government.

SEC. 304. ADMINISTRATION.

(a) LEADERSHIP COUNCIL.—

(1) IN GENERAL.—In order to receive a grant under this title Portland State University shall ensure that the Institute operates under the direction of a Leadership Council (in this title referred to as the ''Leadership Council'') that—

''(A) consists of 15 individuals appointed by the President of Portland State University; and

''(B) is established in accordance with this section.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)(A)—

(A) Portland State University, Willamette University, the Constitution Project, George Fox University, Warner Pacific University, and Oregon Health Sciences University shall each have a representative;

(B) at least 1 shall represent Mark O. Hatfield, his family, or a designee thereof;

(C) at least 1 shall have expertise in elementary and secondary school social sciences or governmental studies;

(D) at least 2 shall be representative of business or government and reside outside of Oregon;

(E) at least 1 shall be an elected official; and

(F) at least 3 shall be leaders in the private sector.

(3) EX-OFFICIO MEMBER.—The Director of the Mark O. Hatfield School of Government at Portland State University shall serve as an ex-officio member of the Leadership Council.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The President of Portland State University shall designate 1 of the individuals first appointed to the Leadership Council under subsection (a) as the Chairperson of the Leadership Council. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENT.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1), or the term of the Chairperson elected under this paragraph, the members of the Leadership Council shall elect a Chairperson of the Leadership Council from among the members of the Leadership Council.

SEC. 305. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the Oregon University System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the Institute under section 303.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be spent by Portland State University in collaboration with Willamette University, George Fox University, the Constitution Project, Warner Pacific University, Oregon Health Sciences University, and other appropriate educational institutions or community-based organizations. In expending such funds, the Leadership Council shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000.

TITLE IV—PAUL SIMON PUBLIC POLICY INSTITUTE

SEC. 401. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 402(d).

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''Institute'' means the Paul Simon Public Policy Institute described in section 402.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(6) UNIVERSITY.—The term ''University'' means Southern Illinois University at Carbondale, Illinois.

SEC. 402. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 406, the Secretary is authorized to award a grant to Southern Illinois University for the establishment of an endowment fund to support the Paul Simon Public Policy Institute. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) DUTIES.—In order to receive a grant under this title, the University shall establish the Institute. The Institute, in addition to recognizing more than 40 years of public service to Illinois, to the Nation, and to the world, shall engage in research, analysis, debate, and policy recommendations affecting world hunger, mass media, foreign policy, education, and employment.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 403. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of Illinois, such as federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, or obligations of the United States.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 404. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 402(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 405. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 404, except as provided in section 402(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 403; or

(3) fails to account properly to the Secretary, or the General Accounting Office if properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be proscribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000. Funds appropriated under this section shall remain available until expended.

TITLE V—ROBERT T. STAFFORD PUBLIC POLICY INSTITUTE

SEC. 501. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Robert T. Stafford Public Policy Institute for the purpose of generating income for the support of authorized activities.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title.

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''institute'' means the Robert T. Stafford Public Policy Institute.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 502. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 505, the Secretary is authorized to award a grant in an amount of $5,000,000 to the Robert T. Stafford Public Policy Institute.

(b) APPLICATION.—No grant payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

SEC. 503. AUTHORIZED ACTIVITIES.

Funds appropriated under this title may be used—

(1) to further the knowledge and understanding of students of all ages about education, the environment, and public service;

(2) to increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice;

(3) to provide or support scholarships;

(4) to conduct educational, archival, or preservation activities;

(5) to construct or renovate library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute;

(6) to establish or increase an endowment fund for use in carrying out the programs of the Institute.

SEC. 504. ENDOWMENT FUND.

(a) MANAGEMENT.—An endowment fund created with funds authorized under this title shall be managed in accordance with the standard endowment policies established by the Institute.

(b) USE OF ENDOWMENT FUND INCOME.—Endowment fund income earned (on or after the date of enactment of this title) may be used to support the activities authorized under section 503.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000. Funds appropriated under this section shall remain available until expended.

ORDERS FOR WEDNESDAY, NOVEMBER 3, 1999

Mr. HAGEL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, November 3. I further ask consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the trade bill postcloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. HAGEL. For the information of all Senators, at 9:30 a.m. on Wednesday, the Senate will immediately begin debate in relation to the African trade bill. Therefore, Senators may anticipate votes throughout the day and into the evening. In addition, it is expected that the Senate could consider the financial services modernization conference report and any necessary appropriations bills. Therefore, votes will occur each day of Senate session this week.

ORDER FOR ADJOURNMENT

Mr. HAGEL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator WYDEN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, I yield the floor.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

PRESCRIPTION DRUG COVERAGE FOR OUR NATION'S ELDERLY CITIZENS

Mr. WYDEN. Mr. President, I am on the floor tonight for what is really the 10th time in recent days to talk about the need for decent prescription drug coverage for the Nation's elderly citizens. There is one bipartisan bill now before the Senate. It is the Snowe-Wyden bill. I believe so strongly in this issue because of what I am hearing from senior citizens in my home State and now, frankly, from across the United States.

What I have decided to do, as part of the effort to advance the prospect of dealing with this issue and dealing with it on a bipartisan basis, is to come to the floor as frequently as I can in the hectic Senate schedule to read from some of these bills I am getting from the Nation's senior citizens.

As you can see in the poster next to us, on behalf of the Snowe-Wyden legislation, I am urging seniors to send in copies of their prescription drug bills directly to us at the United States Senate, Washington, DC 20510, because I would like to see the Senate deal with this issue and not just put it off because some are saying it is too difficult and too hard to deal with in this contentious climate. I believe Members of the Senate are sent here to deal with tough issues. This is one that would meet an enormous need.

For a number of years before I was elected to the Congress, I served as director of the Oregon Gray Panthers. The need for coverage of prescription drugs was extremely important back then. It was always a big priority for senior citizens.

Frankly, it is much more important today because so many of the drugs that are available now are preventive in nature. They help keep seniors well. They help us to hold down the cost of medical care in America. A lot of these drugs today, the blood pressure medicine, the cholesterol medicine, keep seniors well and keep us from needing much greater sums of money to pick up the cost of tragic illnesses.

Last week, I cited as one example an important anticoagulant drug. This is a drug that can be available to the Nation's seniors for somewhere in the vicinity of $1,000 a year. But if a senior gets sick, if a senior suffers a debilitating stroke, the expenses associated

with that treatment can be more than $100,000. Just think about that—a modest investment in decent prescription drug coverage for the Nation's elderly people, an anticoagulant drug that costs $1,000 a year can help save $100,000 in much more significant medical expenses.

As the President knows, we have a real challenge in terms of ensuring the stability of the Medicare program. The Part A program, the institutional program, is the one that is going to escalate in cost if we can't do more to make prescription drug coverage a significant part of outpatient benefits for the Nation's seniors.

I am very hopeful this Senate will act on this issue. I believe this is the kind of issue that could be a legacy for this session of Congress.

All over the Nation, seniors are telling us now they cannot afford their prescription medicine. I am going to read from three more letters I have recently received from folks at home. The first is from an elderly woman in Toledo, OR. She writes:

> Dear Senator Wyden, I am an 81-year-old widow. My only income, Social Security, allows me to pay for glaucoma, angina, high blood pressure, all of which I have problems. I am taking eight prescription medications daily. My Medicare supplement insurance doesn't cover medication.

For just 1 month for those medicines, she has to spend $166. On top of that, she reports that every other month she has to spend a little over $62 for a small bottle of eye drops. As she says:

> That adds up to a lot. If I don't use the eye drops, I go blind. And if I don't use the other medications, I will have a stroke, a heart attack or both. Myself, and I am sure many others, are in exactly the same boat.

She, as part of her letter, encloses a copy of her bills.

Now, this isn't the kind of thing we might hear from some Washington, DC, think tank that is putting out reports about whether or not this is a serious problem and whether or not seniors really need this prescription drug coverage. This is a real live case. This isn't an abstract kind of matter. This is an 81-year-old widow in the State of Oregon who is taking eight prescriptions a day, spending from a modest fixed income $166 a month for those eight prescriptions. Every other month, on top of that, she has to pay for her eye drops. It is very clear that if she doesn't get those medicines, she is going to have the much more serious problems—heart attacks and strokes—that are so debilitating to older people.

Another letter that I got in the last couple of days comes from Medford, OR, from seniors there who discussed the question of prescription drug coverage there at the senior citizens center. They said:

> We are glad you are launching a movement to gain support for prescription drug coverage for seniors. They hope it goes through. Enclosed you will find a computer printout of the amounts I spend on prescriptions and drugs. More than 10 percent of our annual budget is used to defray prescription costs. That does not include the miscellaneous items related to drug purchases.

She sent me this, and I will hold up a copy of it. It is an example of the kind of information we are getting. She actually sent us an enumerated copy of the prescription bills that she is paying at home in Medford, OR. These are not isolated cases. I have been on the floor now, this is the tenth occasion, taking three or four of these cases every single time. I hope seniors and families who are listening tonight will look at this poster and see we are urging that they send in copies of their prescription drug bills to their Senators here in the U.S. Senate in Washington, DC, because I am hopeful that this can prick the conscience of the Senate and bring about constructive action before this session is over.

The Snowe-Wyden legislation is bipartisan. Fifty-four Members of this body have already voted for this bill. We have a majority in the Senate on record on behalf of the funding mechanism that we envisage in our legislation. We use marketplace forces. I am not talking about a price control regime or about a one-size-fits-all approach to Federal health care; it is one that is very familiar to the Presiding Officer and to all our colleagues. It is really a model based on the Federal Employees Health Benefits Plan. The Snowe-Wyden legislation is called SPICE. It stands for the Senior Prescription Insurance Coverage Equity Act. It is bipartisan. We do think it would help create choices, options, and alternatives for the Nation's older people.

I am very hopeful this Senate will say we cannot afford to duck this issue. I am often asked whether we can afford to cover prescription medicine for the Nation's older people. I am of the view that we cannot afford not to cover prescriptions, because what we are going to save as a result of these medicines of the future, and the breakthroughs that we are achieving in terms of preventive care and wellness, is going to far exceed the costs that might be incurred as a result of debilitating illnesses that seniors will suffer if they can't get the medicine. As part of this effort to get bipartisan support for the Snowe-Wyden legislation, I intend to keep coming to the floor of the Senate and reading from these letters.

Before I wrap up tonight, I wish to bring up one other case that I thought was particularly poignant. This also was a letter from an elderly person in Medford. Her Social Security monthly income was $582. Over the last few months, she spent over $700 on her prescription medicine, and every 3 months, in addition, she has to pay for her health insurance plan, which doesn't seem to cover many of the health care needs that she has.

Just think about that. With a monthly Social Security income of $582, over recent months she spent more than $700 on prescription drugs. Her private policy doesn't cover many of her health care needs. She also is sending me copies of her bills in an effort to get the Senate to see how important this issue is.

Members of the Senate, I know, care about older people; a number of them have come up to me while I have been on the floor these last couple of weeks talking about this issue and said: You are right; we need to act on it. It is hard to see what is actually holding up the effort to go forward in the Senate.

This is the last period before the year is out. Certainly we can come together as a body and get ready to address this issue early next year. We have a majority in the Senate on record and voting for a specific plan to fund this benefit. It is based on a model that uses marketplace forces that ought to be appealing to both sides of the aisle. It is a model with which Members of Congress are familiar because of the Federal Employees Health Benefits Plan. It is the basis of the Snowe-Wyden legislation. It is hard to see what is really holding up the effort to win passage of this important legislation.

I guess part of the problem is that some of the political prognosticators say it is a difficult issue, that both sides are just going to fight it out on the campaign trail, and we can just wait until 2001 to actually take action on it.

When I hear from seniors at home, such as the letter I raised first from the elderly widow in Toledo who has eight prescriptions and pays more than $165 a month for her prescriptions, and folks in Medford who are on a small monthly income and spending a significant portion of it on prescription drugs, I don't think those people can afford to wait until after the 2001 election. Frankly, I think they expect us to deal with the concerns they have, and to deal with them now.

It is essentially one full year before there is another election. There is plenty of time to go out and campaign and have the vigorous discussion of the issues in the fall of 2000. But what we ought to do now is to act in a bipartisan way. The Snowe-Wyden legislation is that kind of effort. Senator SNOWE and I have said we are going to set aside some of the partisan bickering that has surrounded health care in this session of the Senate in years past; we are going to move forward and try to make sure seniors get some help.

I hope families and seniors who are listening tonight will look at this poster. We are urging that seniors send copies of their prescription drug bills directly to each of us in the Senate here in Washington, DC, and help us in the Senate to come together and deal with the issue that is of such extraordinary importance to our families.

There are a variety of ways this issue could be addressed. I think personally the Snowe-Wyden legislation, because it is bipartisan and because more than half of the Senate has voted for a plan to fund it, is the way to go. But I am sure there are other kinds of ideas.

When seniors send in copies of their prescription drug bills as we try to get action on this issue, I hope they will also let us know their ideas about legislative approaches, be it support for Senator SNOWE, the Snowe-Wyden legislation, or other kinds of approaches. But what to me is unacceptable is just ducking. I do not think there is any excuse for inertia on this issue. I think it is time for the Senate to say we cannot afford, as a nation, to see seniors suffer the way they do when they cannot get prescription drug coverage.

Just as important as the questions of fairness for seniors, it seems to me, are the questions of economics. From an economic standpoint, the need to cover some of these prescription drugs for seniors looks to me like a pretty easy call. With a modest investment, we can save a whole lot of expense that comes about when they suffer strokes and heart attacks and the like when they cannot get their medicine.

So I hope in the days ahead, Members of the Senate, in senior centers and medical facilities and other places where we all go to visit, will take the time to talk to some of the folks at home about the need for prescription drug coverage and discuss ways we can actually get this benefit added in this session of the Senate. Too many of our seniors now cannot afford their medicine. That is what these bills are all about. What these bills and these letters I am getting from seniors at home in Oregon are all about is that they cannot afford their medicine. These are the people who are told by their doctors to take three prescriptions; they cannot afford to do that and they end up taking two prescriptions. Then they cannot afford to do that; then it is one. Pretty soon, sure as the night follows day, they get sicker and they need institutional care. That is, obviously, bad for their health and it is also bad for the Nation's fiscal health. So I intend to keep coming back to the floor of the Senate.

Since my days with the Gray Panthers at home in Oregon, I felt this was an important benefit for the Nation's older people. All these letters I am receiving as a result of folks sending in copies of their prescription drug bills, if anything, just reaffirms to me how important it is that the Senate act on this issue, and do it in a bipartisan way.

Let's show seniors, let's show the skeptics we can come together around this important priority. This is not a trifling matter. This is, for many, many seniors, their big out-of-pocket expense. Many of them do not have private health insurance that covers it. Many of them are simply falling between the cracks in terms of meeting their health care expenses. For many elderly people, as a result of escalating health costs, they are paying more proportionally out of their own pocket today than they were back when Medicare began in 1965. That should not be acceptable to any Member of the Senate.

I intend to come back to the floor again and again and again until this Senate, on a bipartisan basis, looks to addressing this prescription drug coverage. The Snowe-Wyden legislation is bipartisan. It uses marketplace forces. We reject the kind of price control regimes others may wish to pursue. I am hopeful we can get action on this issue because, for the millions of seniors who cannot afford their prescriptions, the Senate's willingness to tackle this issue, and do it on a bipartisan basis and get some relief for the seniors, will help instill a sense of confidence, a sense that the Senate is listening to them, hearing them, and is willing to respond to their most significant needs.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 9:30 a.m., Wednesday, November 3, 1999.

Thereupon, the Senate, at 6:49 p.m., adjourned until Wednesday, November 3, 1999, at 9:30 a.m.

EXTENSIONS OF REMARKS

SALUTING THE SPIRIT OF WALTER PAYTON

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. HASTERT. Mr. Speaker, yesterday was a sad day for everyone in Chicagoland and for everyone who loved sports. But it was also a sad day for everyone who cherished the life of a special man whose influence extended far beyond the stadiums in which he played.

With the death of Walter Payton, we not only have lost one of football's greatest stars, but we have also lost one of America's greatest citizens.

His nickname was ''Sweetness,'' the perfect description for a Hall of Fame running-back whose silky smooth performance on the football field was the bane of most defenses.

There is no doubt that Walter Payton will be remembered for his records, especially his remarkable all-time rushing total of 16,726 yards over his 13-year career. More importantly, however, he will be remembered for the grace and dignity with which he carried himself both on and off the field.

A lifelong Chicago Bears fan, I have sat in the bitter cold of Soldier Field only to have my spirit warmed by Water Payton's fierce determination and his amazing feats of athletic prowess. But I also saw the way he warmed people's hearts in his everyday life. He was someone who recognized the power of faith and the value of teamwork.

As a local business owner in my district, Walter Payton played an important role in the economic revitalization of downtown Aurora, IL. While he built a successful restaurant and created new jobs for the area, he also became an integral part of the community.

It was the same with the Bears. Walter Payton was the glue that often held a fractious team together. By his own example and leadership, he helped younger players meet new challenges, while at the same time encouraging veterans to reach new heights.

As a high school coach, I saw the way Walter Payton inspired young athletes to strive to do their best. He was a true role model because he exemplified an important life lesson that teaches us that success requires hard-work, discipline, and concentration.

It was a philosophy that made him physically powerful and spiritually centered. And it should come as no surprise that he approached his recent illness head-on, with the same courage and grit he displayed on the field.

But there was another side to Walter Payton—the playful and mischievous side that delighted fans, friends, and teammates. Walter Payton had the confidence to live his life to the fullest. And he had the rare ability to make us revel in that life along with him.

Just last February, Walter Payton said: ''It's just like football. You never know when or what your last play is going to be. You just play it and play it because you love it. Same way with life. You live life because you love it. If you can't love it, you just give up hope.''

Walter Payton never gave up hope. It is with fondness for that spirit that we remember him today and forever.

HONORING JAMESETTA A. HALLEY-BOYCE, PH.D

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. TOWNS. Mr. Speaker, I rise today to honor Dr. Jamesetta A. Halley-Boyce.

Dr. Jamesetta A. Halley-Boyce, a native New Yorker received her Ph.D. in Health Care Services Administration from the Walden University of Indiana at Bloomington. She received her Bachelor's Degree in Nursing from Hunter College and her Master's from New York University. She holds a Certificate of Training from the Johnson and Johnson Fellows Program (Class of 1985) in Management for Executive Nurses, from the University of Pennsylvania, Wharton School of Business.

During her twenty-one year career with the Department of Veterans Affairs, she held increasingly more challenging assignments in nursing leadership positions as VA Medical Centers throughout the United States. Her last assignment was Chief of Nursing Service at the Brooklyn VAMC where her responsibilities included the delivery of nursing care at the Medical-Surgical Hospital on the Main Campus, the Ambulatory Care Clinic at Ryerson Street in Brooklyn and the St. Albans Extended Care Center in Queens, New York. Additionally, Dr. Halley-Boyce has served as Chief of Nursing at the VAMCs in Asheville, North Carolina, Northport, Long Island, New York, and East Orange, New Jersey. In 1987, Dr. Halley-Boyce appeared before the Committee on Veterans Affairs, U.S. House of Representatives, to give testimony as the Chief, Nursing Service member of a panel of VA field experts. The two-day hearings addressed the impact of the President's proposed fiscal year 1988 Veterans Administration Budget.

Recognized as a leader in the profession of Nursing, Dr. Halley-Boyce has held elected offices in the New Jersey State Nurses' Association, the New York State Nurses' Association's Council on Human Rights and the Interprofessional Relations Committee of the Medical Society of the County of Kings, Inc. She is past President of the Greater New York/Nassau/Suffolk Organization of Nurse Executives and is a previous Board Member of the New York State Organization of Nurse Executives. She is the only professional nurse on the Editorial Board of the Medical Herald, a National Urban Health Care Newspaper. Dr. Halley-Boyce is a recognized expert on quality management in the delivery of health care services and has lectured widely and published on this subject. She has held numerous faculty appointments; at the Seton Hall University, the University of Tennessee at Knoxville, Duke University, Thomas Edison State College, the State University Center at Stony Brook, and currently at the SUNY-Health Science Center at Brooklyn. In 1991, she founded the Chi Eta Phi Sorority, Inc. Mentor Program partnership with the SUNY Health Science Center at Brooklyn College of Nursing and University Hospital's Department of Nursing Services. As a result of that Membership Program, several hundred student nurses at UHB and most recently at New York City Technical College, have successfully made the transition into the profession of nursing.

In October 1990, Dr. Halley-Boyce joined the State of New York Health Science Center at Brooklyn, Downstate Medical Center, as the Chief Nurse Executive Officer. She currently serves as the Interim Vice President for Hospital Affairs & Chief Executive Officer of University Hospital of Brooklyn. Dr. Halley-Boyce, a Diplomate of the American College of Healthcare Executives (ACHE) was appointed a member of the Regent's Advisory council for the New York area in 1997. Dr. Halley-Boyce is also an active member of several other professional organizations on the national, state and local levels, including the National Association of Health Services Executives, the American Organization of Nurse Executives, American Nurses' Association, Sigma Theta Tau, Delta Sigma Theta Sorority and Chi Eta Phi Sorority.

In addition to her distinguished professional career and active membership in several professional organizations, Dr. Halley-Boyce has also received several awards for achievement, leadership and outstanding community service. Awards such as: Federal Executive Manager of the Year 1990, awarded by the Greater New York Federal Executive Board; The Community Service Award for Outstanding Contribution and Dedication to the Brooklyn Community by the HSCB/UHB Community Advisory Board; and the Women of Distinction Award by the YMCA of Brooklyn.

TRIBUTE TO WANGKAY FANG

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to WangKay Fang, a leader in the Hmong community who passed away on October 6, 1999 in Fresno. Mr. Fang left behind six brothers, nine sisters, five daughters, three sons and twelve grandchildren, along with many fellow countrymen and women.

Mr. Fang will forever be remembered as one of the respected Hmong leaders who spent his entire life dedicated to helping his fellow countrymen during and after the cold war in Laos. During the U.S./Vietnam War,

Captain WangKay Fang served 15 years for the United States Secret Army operation, in Laos under the command of General Vang Pao. His service and dedication shall remain etched in history for generations to come. Mr. Fang's military leadership has contributed to the common interests of the world in order to protect against the spread of communism, and preserve peace, freedom and democracy in Southeast Asia.

During the U.S./Vietnam War, Mr. Fang was the mission commander of the Special Guerrilla Unit to fight against communists and rescue U.S. pilots shot down in Laos. In addition, Mr. Fang was in charge of the military department for medical personnel.

Mr. WangKay Fang arrived in the United States in August, 1976 as a political refugee from Laos. His family re-settled in California. Mr. Fang worked diligently to address the Hmong and Laotian resettlement difficulties in a new society. During his 24 years of re-settlement in the United States, Mr. Fang took on numerous leadership roles: chairman of the Hmong International New Year in Fresno from 1966–1998; co-founder of the Hmong Youth Foundation of Fresno; co-founder and President of the United Hmong International Council from 1996–1998; co-founder and Vice President of the Hmong National Council of Fresno from 1994–1996; co-founder and board member of the Hmong Council from 1981–91, and vice president from 1992–1994; Board member for the Lao Community of Fresno from 1981–1991; co-founder and board member for the Lao Family Community headquarters in Orange County from 1978–1981.

Mr. Fang is also an active member of political advocacy in the Hmong community worldwide. He has dedicated his entire life in the United States to the promotion of freedom, democracy and human rights for the people and region of Southeast Asia.

Mr. Speaker, I rise to honor Mr. WangKay Fang for his dedication to preserve freedom. Mr. Fang is honored by his family members and his fellow countrymen as an honorable leader who was generous and honest. I urge my colleagues to join me in extending my condolences to the Hmong and Laotian community.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. GUTIERREZ. Mr. Speaker, on Monday, November 1, 1999 I was unavoidably absent from this chamber and therefore missed rollcall vote 550 (on passage of H.R. 348), rollcall vote 551 (on passage of H.R. 2737) and rollcall vote 552 (on passage of H.R. 1714). I want the record to show that had I been present in this chamber I would have voted ''yes'' on rollcall votes 550 and 551 and ''no'' on rollcall vote 552.

CONGRATULATIONS TO THE CLEVELAND BROWNS

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mrs. JONES of Ohio. Mr. Speaker, I rise today to congratulate the Cleveland Browns football team on their first NFL win as an expansion team. This win, in only their 8th game since being reincarnated, was impressive and magical. As a loyal fan of the team, I watched quarterback Tim Couch's last second ''Hail Mary'' 56-yard pass sail into the awaiting hands of wide receiver Kevin Johnson. The prayers of Cleveland fans were answered with the 21–16 win.

I applaud the team and its ''never-say-die'' attitude and efforts to win against the New Orleans Saints in this game. The two first-year players involved in the winning play, Couch and Johnson, have proven themselves stars already in their rookie season. But the efforts of the whole team and the entire Browns organization must be applauded. From owner Al Lerner and Team President Carmen Policy down to the individual players, everyone has exemplified themselves and the City of Cleveland by playing with the heart of champions.

I congratulate the Cleveland Browns on this historic win, the first of what will undoubtedly be many exciting victories.

HONORING MAXINE C. BROWN-REID

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. TOWNS. Mr. Speaker, I rise today to honor Maxine C. Brown-Reid, a leader in healthcare.

As Deputy Executive Director at Kings County Hospital Center, Ms. Brown-Reid is responsible for Network Ambulatory Care Services, Managed Care and Community Health. Her areas of responsibility include the hospital's clinics and Emergency Departments (except Behavioral Health Services), the East New York Diagnostic and Treatment Center, ten Family Health Services Clinics and the Flatbush Health Center, the newest off-site facility.

Ms. Brown-Reid began her tenure with Kings County Hospital Center in 1982 as an Administrative Resident to the Executive Director. At the end of the one year program, she was appointed as Assistant Director for Pediatric Outpatient Services, followed by a promotion to Associate Director of Maternal and Child Health Services, Outpatient.

After seven years at Kings County Hospital Center, Ms. Brown-Reid relocated to Jacksonville, Florida, where she was the first black Administrator for Emergency Services at University Medical Center. Upon her return to New York, Ms. Brown rejoined the Network family by accepting a position as Deputy Executive Director at the East New York Diagnostic and Treatment Center, and while there she was promoted to her current Network position.

Ms. Brown-Reid received her undergraduate degree from Fordham University and her MPA from New York University. She is also a member of the American College of Healthcare Executives and the American Hospital Association's Society for Ambulatory Care Professionals.

Mr. Speaker, I would like you and my colleagues from both sides of the aisle to join me in honoring Ms. Maxine C. Brown-Reid.

HONORING STAVROS NICHOLAS KALOMIRIS AND VIOLET RECKAS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Stavros Kalomiris and Violet Reckas. They were the recipients of St. George Greek Church's Georgie Awards.

Stavros Nicholas Kalomiris: Stavros was born in Anniston, Alabama, on April 2, 1925. His family moved to Fresno when he was 8 months old. Stavros graduated from Fresno High School in 1943. He then joined the Marine Corps after graduation and served in the Pacific Theater for 3 years. Stavros saw action on Iwo Jima. He returned to Fresno after the war.

On February 17th, 1952, he married Clara Mitchell from Stockton, California. They have 3 children and 7 grandchildren. Stavros worked for the City of Fresno, Street Department, for 25 years and retired in 1978.

Stavros served on the St. George Parish Council in 1959 and 60. He also served as St. George Youth Advisor for over 10 years and ran Camp Keola at Huntington Lake for many years before St. Nicholas Ranch was established. Stavros assisted Father Bakas at St. Nicholas Ranch by transporting campers to and from the ranch.

Stavros has been a life long member of St. George Golden Age activities as tour director for over 10 years and a member of the Order of Ahepa for over 40 years.

Stavros volunteers at Special Olympics every year. He and his family have been a very important part of St. George Church and the Greek Community for many years.

Violet Reckas: Vi is one of nine children born to Peter and Vasiliki Reckas. A native of Fresno, Vi's affinity for ecclesiastical music came naturally: her father was a cantor for the Church which, at the time, was but a few blocks away from the family home. Vi attended Edison High School, and wound up working in the family bakery during World War II while her brothers were away.

The St. George Choir has been organized by her brother John prior to the war. Vi took over the direction of the choir at the urging of Dr. Limberakis during his tenure at St. George. During the 80's, Vi's outstanding work with the choir was recognized by (Bishop) Metropolitan Anthony Lakovos with a Gold Medallion. Vi's involvement with the choir became somewhat curtailed in 1991 when a tumor was discovered.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. GUTIERREZ. Mr. Speaker, on Monday, October 18, 1999 I was unavoidably absent from this chamber and therefore missed rollcall vote 508. I want the record to show that had I been present in this chamber I would have voted ''yea'' on vote 508.

I also missed rollcall vote 512 on Tuesday, October 19, 1999. I want the record to show that if I had been able to be present in this chamber when this vote was cast, I would have voted ''no'' on rollcall vote 512.

IN HONOR OF MEXICAN-AMERICAN VETERANS

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Ms. SANCHEZ. Mr. Speaker, today I rise to pay tribute to the Mexican-American veterans who have served the United States of America in war and peace throughout the course of our nation's history.

Hispanos fought against the British during the American Revolution. In 1779, General Bernardo de Galvez of New Orleans led an army against the British, defeating them in key battles along the Mississippi River at Baton Rouge and Pensacola, Florida. The General's army captured eight British warships and over 5,000 British soldiers. And in 1836, Mexican-Americans fought in the battle for the Lone Star State, Texas. Nine Mexican-Americans died during the Battle of the Alamo.

Historically, over 500,000 Mexican-Americans served during World War II and the Korean War. In the Vietnam War, Mexican-Americans represented 20% of the combat troops, yet were only 10% of the total population of the United States! And in April of 1999, two of the Americans who were captured and held in Kosovo as prisoners of war were Latinos, Sgt. Andrew Ramirez and Spec. Steven Gonzales.

Patriotic, heroic, and loyal to their country, Mexican-Americans have stood united against the enemies who have threatened America's freedom. Colleagues, please join me today in saluting the Mexican-American Veterans who have honored our country with their bravery and dedication.

HONORING ROBERT ''RED'' McKEON ON RECEIVING THE FIREFIGHTER OF THE YEAR AWARD FROM THE NATIONAL VOLUNTEER FIRE COUNCIL

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. GEJDENSON. Mr. Speaker, I rise today to congratulate Robert ''Red'' McKeon on receiving the Firefighter of the Year award from the National Volunteer Fire Council. Red embodies the characteristics which make volunteer firefighters extraordinary public servants.

Red McKeon has been active in the volunteer firefighter community on the local, state, national and international levels for more than fifty years. In 1944, he joined the Occum Volunteer Fire Department in Occum, Connecticut. After serving in a number of positions, he became Chief in 1960. He served in that position for the next thirty four years. This tenure is a testament to Red's leadership skills, innovative practices and commitment to his community. Under Red's leadership, the Occum Volunteer Fire Department achieved a number of ''firsts'' in the State of Connecticut. Occum was the first department to have two-way radio communication equipment in fire trucks and other vehicles; the first to have a computer in the station which could provide a wide array of training to keep skills sharp; and the first department to have certified firefighters and emergency medical technicians. In 1970, Red established the Occum volunteer ambulance service to ensure that the residents of Occum and the surrounding communities could receive state-of-the-art emergency medical treatment within minutes.

Red has been a pioneer in other areas as well. He has worked for a number of years to develop a pension system for volunteer firefighters. Unlike their career counterparts, our volunteer firefighters do not receive a pension after decades of service to their communities. Red worked to establish a system in the State of Connecticut which allows communities to establish voluntary retirement programs for volunteers. Under Red's plan, communities can provide a small, but extremely crucial, amount of retirement income to men and women who have safeguarded our lives and property for decades. This is another example of Red's commitment to the volunteer firefighters of Connecticut.

Red has also served in a number of state and national volunteer firefighter organizations. He has been a member of the Connecticut State Firemen's Association since 1944 serving as its President between 1977 and 1978 and Treasurer since 1979. He has also participated in a wide array of other state-based organizations, including the Fire Chiefs' Technical Advisory Committee, Emergency Medical Advisory Committee, and the Fire Department Safety Officers Association.

On the national level, Red has been an active member of the National Volunteer Fire Council—the largest volunteer firefighter organization in the country—for many years. Between 1991 and 1994, he served as the Council's President following five years as Second Vice President. As Vice President and President, Red worked on behalf of volunteers across the country to ensure that they received the latest firefighting and emergency medical training and were represented with a united voice at all levels of government. In this capacity, Red was a trusted advisor to Congress and the Executive branch.

Mr. Speaker, Red McKeon exemplifies the very best of volunteer firefighters across this country. Over fifty five years of active service as a volunteer firefighter, Red has worked tirelessly to modernize and strengthen volunteer fire departments in eastern Connecticut and nationwide. I commend him for receiving the Firefighter of the Year award and thank him for his service to Connecticut and the nation.

HONORING DOCTOR VINCENT CALAMIA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. TOWNS. Mr. Speaker, I rise today to honor Dr. Vincent Calamia, a shining example of what physicians in this country should aspire to be.

Dr. Vincent Calamia, F.A.C.P., F.A.C.E. is the President of the largest group practice in New York City, University Physicians Group, as well as the Director of Geriatrics at Staten Island University Hospital. He also conducts a private practice in Endocrinology on Staten Island. Dr. Calamia is a Diplomate in Internal Medicine, Endocrinology, Geriatrics, and Quality Assurance. In addition, he is Clinical Assistant Professor of Medicine at the State University of New York at Brooklyn.

Mr. Speaker, one would think with all these responsibilities that Dr. Calamia would not have time for much else in his life, but he makes a generous portion of his time available for medical humanitarian efforts. He serves on the Board of the MSO of the North Shore Long Island Jewish Health System, Board of the MSO of the Beth Israel Health System, and on the Board of the Alzheimer's Association of Staten Island. Dr. Calamia is also Vice President of the Children's Foundation of the Ukraine, which supports orphanages in the Ukraine. This coming summer with the help of Dr. Eugene Holuka and under the auspices of the Forum Club, the Foundation will be sponsoring the open-heart surgery of two children at Columbia Presbyterian Hospital.

Mr. Speaker, I would like you and my colleagues from both sides of the aisle to join me in honoring Dr. Vincent Calamia.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. GUTIERREZ. Mr. Speaker, on Thursday, September 23, 1999, I was unavoidably absent from this chamber and therefore missed rollcall vote 442. I want the record to show that had I been present in this chamber I would have voted ''yea'' on this vote.

I also missed rollcall vote 456 on Tuesday, September 28, 1999. I want the record to show that if I had been able to be present in this chamber when this vote was cast, I would have voted ''yea'' on rollcall vote 456.

IN HONOR OF PLAST, UKRAINIAN AMERICAN YOUTH ORGANIZATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. KUCINICH. Mr. Speaker, I rise today to honor the Greater Cleveland chapter of PLAST, Ukrainian American Youth Organization on their fiftieth anniversary. I am honored to attend the commemorative event celebrating this momentous occasion on December 5, 1999.

PLAST was founded in Ukraine in 1911. Because of the Soviet Union's rule over Ukraine after World War II, PLAST was eradicated from its native land. Post-World War II immigrants brought their Ukrainian ancestry with them to the free world and build up PLAST wherever they settled. The city of Cleveland was fortunate to have a chapter of PLAST develop and flourish in the area.

Now, three generations later, PLAST is still nurturing its youth in the Greater Cleveland area. The organization is dedicated to developing character, citizenship, and ethnic pride. They also share a profound love of nature and express this through their many services around the community. As important as anything, PLAST also values and teaches leadership qualities among American youth of Ukrainian ancestry. The honor and integrity the youth are developing through PLAST will stay with them throughout their life as they become the leaders of our community.

I urge my fellow colleagues to please join me in recognizing the fiftieth anniversary of such an honorable organization as the Cleveland chapter of PLAST, Ukrainian American Youth Organization and wish them many more years of growth and success.

PERSONAL EXPLANATION

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mrs. JONES of Ohio. Mr. Speaker, on October 18, 1999, I was unavoidably detained and was not able to vote on the following measures:

I would have voted ''yea'' on rollcall vote 505;

I would have voted ''yea'' on rollcall vote 506;

I would have voted ''yea'' on rollcall vote 507; and

I would have voted ''yea'' on rollcall vote 508.

Once again, Mr. Speaker, on November 1, 1999, I was unavoidably detained and was not able to cast my vote on the following measures:

On rollcall vote 550 I would have voted ''yea'';

Also on rollcall vote 551 I would have voted ''yea''; and

Lastly on rollcall vote 552, I would have voted ''yea.''

INTRODUCTION OF SMART KIDS—SAFE KIDS ACT

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mrs. TAUSCHER. Mr. Speaker, I rise today to introduce a crucial piece of legislation designed to prevent abuse and abduction of our nation's children.

As the mother of an eight-year-old, I know all too well the efforts we go through as parents to keep our children safe and protected. We worry about the times children may be unsupervised or find themselves in unfamiliar situations.

In my district, there is a civic group called Smart Kids—Safe Kids that works to educate our children about the signs of abuse and who to talk to about abuse. Schools and community groups are trying to fight back against the horrors of child abuse and abduction, but unfortunately, they just do not have the resources they need to do so effectively.

The Smart Kids—Safe Kids Act, which I am introducing with my Republican colleague KEVIN BRADY, will make specific child safety programs eligible for federal grants already available to school based organizations. These programs will teach students from preschool through grade 12 the skills to identify and cope with potentially dangerous and threatening situations. And it gives students guidance to encourage them to seek advice for anxiety, threats of abuse and actual abuse.

When our children know the rules, they are smart kids; and Smart Kids can be Safe kids.

INTRODUCTION OF SMART KIDS—SAFE KIDS ACT

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. BRADY of Texas. Mr. Speaker, I'm pleased to announce that over 30 members will join Congresswoman ELLEN TAUSCHER and myself in introducing the Smart Kids—Safe Kids Act. This bipartisan legislation is designed to help prevent the abuse and abduction of children.

In every city in every congressional district across the nation, our children are being led into harms way. While a majority of child abductions are by non-custodial parents, many are not. And helping prevent these kind of tragedies from occurring in the future is something we should all work towards. Unfortunately, this is a threat that knows no boundaries and can happen anytime.

For example, on September 12, 1995, in Conroe, Texas, 12-year-old Samuel McKay Everett was lured from home by a family friend on the pretext that his mother and father had been in an awful accident. McKay was then forced into the trunk of a car and driven 300 miles to Louisiana. Tragically, McKay was brutally murdered. Since the time of McKay's abduction, I have worked with his family and friends to help prevent this type of tragedy from happening again.

Smart Kids/Safe Kids will amend the Safe and Drug-Free Schools and Communities Act to help make specific safety programs available to our children. It will authorize grants for age—appropriate, developmentally based, or community oriented safety programs for all students, from preschool level through grade 12, that address prevention and education of child abuse and abduction. These programs will focus on teaching students the skills to identify and cope with potentially dangerous and threatening situations. They will also provide guidance to students that encourages them to seek advice for anxiety, threats of abuse, or actual abuse and to confide in a trusted adult regarding an uncomfortable or threatening situation.

We can arm our children with effective tools to avoid potentially dangerous situations. When our children know the rules, they are smart kids; and Smart Kids can be Safe Kids. I urge my colleagues to support this legislation.

TRIBUTE TO TUN PETE PANGELINAN

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. UNDERWOOD. Mr. Speaker, I rise to pay tribute to Pedro Muna Pangelinan, better known as Tun Pete of Yona, Guam. Tun Pete passed away on October 25, 1999 at the age of 86. During his life time, he experienced many events in Guam's history and he served his island community and family in ways which bring honor and dignity to the name Tun Pete.

Tun Pete lived a simple existence which was steeped in his personal pride in the Chamorro way of life. He understood that being Chamorro was not a slogan or just a matter of personal identity, but was part of a long cultural tradition which needed to be nurtured, practiced and passed on to future generations. During the course of his life, he became a master trapmaker, accomplished and creative weaver and a cultural teacher of the generations which came after him. While the younger people were more schooled, Tun Pete demonstrated that he was much wiser and more knowledgeable about many important things in life.

Tun Pete became a legend in Guam through his ability to make bamboo traps for shrimp in Guam's rivers and streams and through his creative application of coconut leaf weaving techniques passed down in Guam for generations. Tun Pete took the craft of weaving to new creative expressions as he made baskets for Easter egg hunts, center pieces and chandeliers for christenings and weddings. He even made them for the occasional political event for candidates he felt close to and I am especially grateful and honored for the courtesies he extended to me.

Tun Pete's abilities were eventually recognized by the people of Guam and he became a teacher in the Chamorro Language and Culture program and demonstrated his talents to students at the Guam Community College and the University of Guam. The expertise and talent of this quiet, unassuming gentleman who worked as a custodian at M.U. Lujan Elementary School finally received the acclaimation he so richly deserved. He received the Governor's Art Award in 1992 for life time achievement and he wove all of the hats used by the Guam Governor's Youth Band in President Carter's inaugual parade in 1977.

Tun Pete also became recognized as a leader for our manamko's (senior citizens) in Guam. He participated in community meetings, spoke out for justice for Guam's World War II generation, spoke out for fairness and respect for the manamko'. He was elected Rai (king) of the May 1994 celebration of Senior Citizen's month in recognition of his popularity and advocacy.

The island of Guam, the people of Yona, my family will all miss Tun Pete enormously. He demonstrated that personal dignity can overcome handicaps in life that few of us will ever have to deal with. He was a personal inspiration to me, my wife Lorraine and to countless children in Guam.

Tun Pete leaves behind his children and their spouses, Antonia Pangelinan Taitano, Pedro Taitano and Teresita Pangeliman, Priscilla and Pedro Santos, Theophelia and Jesus Camacho, Joaquin and Julie Pangelinan. Si Yu'os ma'ase' Tun Pete put todo I che'cho'-mu. (Thank you Tun Pete for all of your work.)

TRIBUTE TO AL ZANE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. LEWIS of California. Mr. Speaker, I rise today to commemorate the retirement of my very good friend, Alexander Zane. Al has had a distinguished career spanning twenty-five years and thirteen diverse career assignments with the Naval Criminal Investigative Service (NCIS). I am proud to say that one of those assignments was in my congressional office where Al worked with the same dedication and professionalism for which he is well known and respected.

Al Zane came to my office in July, 1995 when I took the helm of the Appropriations Subcommittee on Veterans Affairs and Housing and Urban Development (VA–HUD). As a seasoned professional, Al dove right in to investigating allegations of fraud at the Department of Housing and Urban Development, which was no easy task. He served on my staff until February, 1997 and made contributions that are now being felt in communities across the United States. In addition to his professionalism, Al's ready smile, easy laugh and sincere friendship endeared him to my staff and made him a pleasure to work with. Truly, my staff and I were all sorry when Al's detail to our office was concluded.

Mr. Speaker, please join me in expressing my gratitude to Alexander Zane for his dedicated service and wishing he, his wife, Mary, and family the very best in the years to come.

LUZ BENAVIDES

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. ORTIZ. Mr. Speaker, I rise today to commend and honor Luz Benavides of Corpus Christi, Texas, who has just been awarded the Vida De Oro (Life of Gold) Award, bestowed by the American Association of Retired People (AARP) to recognize those who offer their time and services for the needs of the community.

I have known Luz Benavides for my entire adult life and she is the model of someone who lives a life of gold. She is one of three people who will be honored Saturday night at the Omni Bayfront in Corpus Christi for making major contributions to the senior community by virtue of her everyday hard work, nearly always out of the limelight.

Luz is 86 years old and a familiar face in the Coastal Bend of Texas, for she is involved in a host of activities, including the Nueces County Senior Citizens organization, the local AARP chapter, the Retired Senior Volunteer Program, the Senior Community Services, lobbying for issues about which she is passionate, and always helping her neighbors in need.

Luz embodies the powerful instruction of Christianity by visiting the sick and helping the needy. She also works with the Salvation Army, helping the homeless people in the Corpus Christi area, helping them find shelter in the winter months.

She is a political activist, working tirelessly in issue-related campaigns at all levels and on issues that matter to her and which affect all of us. She speaks mostly to issues that affect the elderly, the disabled and the neglected. Recently, she has lent her voice to the nursing home reform campaign in Texas.

She's never owned or operated a car, which is a tricky business in a sprawling city like Corpus Christi. Interestingly, she has never let that be an obstacle to the good deeds she does for the people she helps on a daily basis. When my mother died, Luz found a way to get from Corpus Christi to Robstown, my hometown nearby, to be with me for the funeral.

One of the most important things she does is to encourage people to vote and to participate in our democracy. She admonishes people that, ''Su voto es su voz,'' your vote is your voice. There is no greater gift in our democracy and Luz knows that. She will stay at the polls the entire day on election day. That is all the more incredible knowing that she remains on post from the time the polls open until the time they close. She stands the whole time, and unless someone brings her food, she doesn't eat.

I ask my colleagues to join me today in recognizing a beautiful person who is being honored for the everyday work she does for the Coastal Bend community, Luz Benavides.

TRIBUTE TO KING BURSTEIN

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. COX. Mr. Speaker, I rise today to honor the 70th birthday of a fine American, true friend, and outstanding community activist: Mr. King Burstein. King was born on November 10, 1929 in Malden, Massachusetts. Upon graduating from the University of California at Los Angeles, King began working with his father and his brother in a leather findings business.

In 1961, King was married, and in the next few years, he and his wife Lee became parents of two fine sons. In the 1970s, King—along with his brother—relocated the family leather business to Orange County.

King, together with Lee, has long been involved in community affairs and both national and local political issues. From his city council to the White House, King actively participates in the self-government that is the essence of our democracy. He has an admirable passion for doing what is right, and never hesitates to give time and resources when needed.

King and Lee have also been very involved with their temple, Temple Bat Yahn. King in particular is a leader in promoting education on key public policy issues both for members of his temple and for elected officials. He is extraordinarily well-read, and always informed about the significant issues of the day.

I am not alone among my colleagues here in the chamber in calling King Burstein a good personal friend. Those of you who do not know King personally will nonetheless recognize in him the same outstanding qualities that characterize that rare individual among your own constituents who is a true national leader. In recognition of his contributions to our county, to his community, and to his family, I know you will all join me in wishing King a very happy and prosperous 70th birthday, and many more to come.

Daily Digest

HIGHLIGHTS

Senate agreed to the District of Columbia/Labor/HHS/Education Conference Report.

Senate

Chamber Action

Routine Proceedings, pages S13619–S13727

Measures Introduced: Six bills and seven resolutions were introduced, as follows: S. 1840–1845, S. Res. 214–217, and S. Con. Res. 65–67. **Page S13879**

Measures Reported: Reports were made as follows:

S. 439, to amend the National Forest and Public Lands of Nevada Enhancement Act of 1988 to adjust the boundary of the Toiyabe National Forest, Nevada. (S. Rept. No. 106–205)

S. 977, to provide for the conveyance by the Bureau of Land Management to Douglas County, Oregon, of a county park and certain adjacent land, with amendments. (S. Rept. No. 106–206)

S. 1296, to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System, with an amendment in the nature of a substitute. (S. Rept. No. 106–207)

S. 1349, to direct the Secretary of the Interior to conduct special resource studies to determine the national significance of specific sites as well as the suitability and feasibility of their inclusion as units of the National Park System, with amendments. (S. Rept. No. 106–208)

S. 1569, to amend the Wild and Scenic Rivers Act to designate segments of the Taunton River in the Commonwealth of Massachusetts for study for potential addition to the National Wild and Scenic Rivers System, with amendments. (S. Rept. No. 106–209)

S. 1599, to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Black Hills National Forest and to use funds derived from the sale or exchange to acquire replacement sites and to acquire or construct administrative improvements in connection with Black Hills National Forest. (S. Rept. No. 106–210)

H.R. 20, to authorize the Secretary of the Interior to construct and operate a visitor center for the Upper Delaware Scenic and Recreational River on land owned by the State of New York, with an amendment. (S. Rept. No. 106–211)

H.R. 592, to redesignate Great Kills Park in the Gateway National Recreation Area as ''World War II Veterans Park at Great Kills''. (S. Rept. No. 106–212)

H.R. 1619, to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to expand the boundaries of the Corridor. (S. Rept. No. 106–213)

S. 791, to amend the Small Business Act with respect to the women's business center program, with an amendment in the nature of a substitute. (S. Rept. No. 106–214)

H.J. Res. 65, commending the World War II veterans who fought in the Battle of the Bulge.

S. 1515, to amend the Radiation Exposure Compensation Act, with an amendment. **Page S13678**

Measures Passed:

Authorizing Senate Chamber Photographs: Senate agreed to S. Res. 214, authorizing the taking of photographs in the Chamber of the United States Senate. **Page S13719**

Printing Authority: Senate agreed to S. Con. Res. 66, to authorize the printing of ''Capitol Builder: The Shorthand Journals of Captain Montgomery C. Meigs, 1853–1861''. **Page S13719**

Printing Authority: Senate agreed to S. Con. Res. 67, to authorize the printing of ''United States Capitol: A Chronicle of Construction, Design, and Politics''. **Page S13719**

Senate Committee Changes: Senate agreed to S. Res. 215, making changes to Senate committees for the 106th Congress. **Page S13720**

Alabama Wilderness: Senate passed S. 1843, to designate certain Federal land in the Talladega National Forest, Alabama, as the ''Dugger Mountain Wilderness''. **Page S13720**

SSA Alternative Penalty Procedure: Senate passed S. 1844, to amend Part D of Title 4 of the Social Security Act to provide for an alternative penalty procedure with respect to compliance with requirements for a State disbursement unit. **Pages S13720–22**

Educational Support: Committee on Health, Education, Labor, and Pensions was discharged from further consideration of S. 440, to provide support for certain institutes and schools, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Pages S13722–25**

Hagel (for Jeffords) Amendment No. 2504, to support the Robert T. Stafford Public Policy Institute. **Pages S13722–25**

African Growth and Opportunity Act: Senate resumed consideration of H.R. 434, to authorize a new trade and investment policy for sub-Sahara Africa, taking action on the following amendments proposed thereto: **Pages S13632–40, S13657–75**

Rejected:

Hollings Amendment No. 2379 (to Amendment No. 2325), to require the negotiation, and submission to Congress, of side agreements concerning labor before benefits are received. (By 54 yeas to 43 nays (Vote No. 345), Senate tabled the amendment.) **Pages S13657–61, S13672–73**

Feingold Amendment No. 2428 (to Amendment No. 2325), to strengthen the transshipment provisions. (By 53 yeas to 44 nays (Vote No. 346), Senate tabled the amendment.) **Pages S13660, S13663–73**

Hollings Amendment No. 2483 (to Amendment No. 2325), to require the negotiation, and submission to Congress, of side agreements concerning the environment before benefits are received. (By 57 yeas to 40 nays (Vote No. 347), Senate tabled the amendment.) **Pages S13661–74**

Hollings Amendment No. 2485 (to Amendment No. 2325), to require the negotiation of a reciprocal trade agreement lowering tariffs on imports of United States goods with a country before benefits are received under this Act by that country. (By 70 yeas to 27 nays (Vote No. 348), Senate tabled the amendment.) **Pages S13664–75**

Conrad/Grassley Amendment No. 2359 (to Amendment No. 2325), to amend the Trade Act of 1974 to provide trade adjustment assistance to farmers and fishermen. (By voice vote, Senate tabled the amendment.) **Pages S13667–69**

Feingold Amendment No. 2406 (to Amendment No. 2325), to ensure that the trade benefits accrue to firms and workers in sub-Saharan Africa. (By voice vote, Senate tabled the amendment.) **Pages S13669, S13675**

Withdrawn:

Lott Amendment No. 2332 (to Amendment No. 2325), of a perfecting nature. **Page S13632**

Lott Amendment No. 2333 (to Amendment No. 2332), of a perfecting nature. **Page S13632**

Pending:

Lott (for Roth/Moynihan) Amendment No. 2325, in the nature of a substitute. **Page S13632**

During consideration of this measure today, Senate also took the following action:

By 74 yeas to 23 nays (Vote No. 344), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on Amendment No. 2325 (listed above). **Page S13632**

Subsequently, the motion to commit with instructions, and Lott Amendment No. 2334 (to the instructions of the motion to commit), of a perfecting nature fell. **Page S13632**

A unanimous-consent agreement was reached providing for further consideration of the bill on Wednesday, November 3, 1999. **Page S13725**

District of Columbia/Labor/HHS/Education Appropriations Conference: By 49 yeas to 48 nays (Vote No. 343), Senate agreed to the conference report on H.R. 3064, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000. **Pages S13622–32**

Financial Services Modernization Conference Report—Agreement: A unanimous-consent-time agreement was reached providing for the consideration of the conference report on S. 900, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, with a vote on adoption of the conference report to occur thereon. **Page S13675**

Messages From the House: **Page S13677**

Measures Read First Time: **Page S13677**

Communications: **Pages S13677–78**

Executive Reports of Committees: **Pages S13678–79**

Statements on Introduced Bills: **Pages S13679–83**

Additional Cosponsors: **Pages S13683–84**

Amendments Submitted: **Pages S13687–S13717**

Notices of Hearings: **Page S13717**

Authority for Committees: **Page S13717**

Additional Statements: **Pages S13717–19**

Record Votes: Six record votes were taken today. (Total—348) **Pages S13632, S13672–75**

Adjournment: Senate convened at 9:31 a.m., and adjourned at 6:49 p.m., until 9:30 a.m., on Wednesday, November 3, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S13725.)

Committee Meetings

(Committees not listed did not meet)

TRADE NEGOTIATIONS

Committee on Banking, Housing, and Urban Affairs: Senate concluded hearings to examine the new Round of international trade negotiations to be discussed at the upcoming World Trade Organization Conference in Seattle, focusing on the services industries trade agenda, after receiving testimony from Charlene Barshefsky, United States Trade Representative.

PROTECTION OF FOREST ROADLESS AREAS

Committee on Energy and Natural Resources: Subcommittee on Forests and Public Land Management concluded hearings to examine the President's Memorandum for the Secretary of Agriculture on the Protection of Forest Roadless Areas, and the Forest Service's actions that are planned in response, after receiving testimony from Senator Hatch; and Daniel R. Glickman, Secretary, Jim Lyons, Under Secretary for Natural Resources and Environment, and Mike Dombeck, Chief, Forest Service, all of the Department of Agriculture.

NOMINATIONS

Committee on Foreign Relations: Committee concluded hearings on the nominations of Avis Thayer Bohlen, of the District of Columbia, to be Assistant Secretary of State for Arms Control, Robert J. Einhorn, of the District of Columbia, to be Assistant Secretary of State for Non-proliferation, J. Stapleton Roy, of Pennsylvania, to be Assistant Secretary of State for Intelligence and Research, Craig Gordon Dunkerley, of Massachusetts, for the Rank of Ambassador during his tenure of service as Special Envoy for Conventional Forces in Europe, Norman A. Wulf, of Virginia, to be a Special Representative of the President, with the rank of Ambassador, Charles Taylor Manatt, of the District of Columbia, to be Ambassador to the Dominican Republic, and Anthony Stephen Harrington, of Maryland, to be Ambassador to the Federative Republic of Brazil, after the nominees testified and answered questions in their own behalf. Mr. Manatt was introduced by Senators Gramm, Feinstein, Boxer, and Harkin, and Mr. Harrington was introduced by Senator Sarbanes.

EXTREMIST MOVEMENTS

Committee on Foreign Relations: Subcommittee on Near Eastern and South Asian Affairs held hearings to examine the incidence of terrorism in the Middle East and South Asia, focusing on how to combat the growing problem of extremism and its by-product, terrorism, receiving testimony from Michael A. Sheehan, Ambassador at Large and Coordinator for Counterterrorism, Department of State; Mansoor Ijaz, Crescent Equity Partners, New York, New York; Milton Beardon, former CIA Chief in Sudan and Pakistan, Reston, Virginia; and Frederick Starr, Johns Hopkins University Nitze School of Advanced International Studies, and Michael Krepon, Henry L. Stimson Center, both of Washington, D.C.

Hearings recessed subject to call.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

The nominations of Melvin W. Kahle, to be United States Attorney for the Northern District of West Virginia, Q. Todd Dickinson, of Pennsylvania, to be Commissioner of Patents and Trademarks, and Anne H. Chasser, of Ohio, to be Assistant Commissioner of Patents and Trademarks, both of the Department of Commerce, and Kathryn M. Turman, of Virginia, to be Director of the Office for Victims of Crime, Department of Justice;

S. 1798, to amend title 35, United States Code, to provide enhanced protection for investors and innovators, protect patent terms, and reduce patent litigation;

H.R. 1907, to amend title 35, United States Code, to provide enhanced protection for inventors and innovators, protect patent terms, and reduce patent litigation, with an amendment in the nature of a substitute. (As approved by the committee, the substitute amendment incorporates the text of S. 1798, Senate companion measure.);

S. 1515, to amend the Radiation Exposure Compensation Act, with an amendment; and

H.J. Res. 65, commending the World War II veterans who fought in the Battle of the Bulge.

Also, committee agreed to postpone consideration of the nominations of Ann Claire Williams, of Illinois, to be United States Circuit Judge for the Seventh Circuit, Faith S. Hochberg, to be United States District Judge for the District of New Jersey, Frank H. McCarthy, to be United States District Judge for the Northern District of Oklahoma, and Virginia A. Phillips, to be United States District Judge for the Central District of California.

GOVERNMENT LAWSUITS

Committee on the Judiciary: Committee held hearings to examine the spate of certain government lawsuits filed against different industries, receiving testimony from Senators Durbin, Reed, and McConnell; Jonathan Turley, George Washington University Law School, Don Ryan, Alliance to End Childhood Lead Poisoning, Matthew L. Myers, National Center for Tobacco-Free Kids, Victor E. Schwartz, Crowell and Moring, on behalf of the American Tort Reform Association, and R. Bruce Josten, United States Chamber of Commerce, all of Washington, D.C.; and Lt. Gen. William M. Keys, USMC(Ret.), New Colt's Holding Company, Hartford, Connecticut.

Hearings recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 12 public bills, H.R. 3193–3204; 1 private bill, H.R. 3205; and 5 resolutions, H.J. Res. 74, H. Con. Res. 218–219, and H. Res. 350–351 were introduced. **Pages H11371–72**

Reports Filed: Reports were filed today as follows:

H.R. 2904, to amend the Ethics in Government Act of 1978 to reauthorize funding for the Office of Government Ethics, amended (H. Rept. 106–433, Pt. 1);

Conference report on S. 900, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers (H. Rept. 106–434);

H.R. 3077, to amend the Act that authorized construction of the San Luis Unit of the Central Valley Project, California, to facilitate water transfers in the Central Valley Project, amended (H. Rept. 106–435);

H.R. 3075, to amend title XVIII of the Social Security Act to make corrections and refinements in the Medicare Program as revised by the Balanced Budget Act of 1997, amended (H. Rept. 106–436, Pt. 1);

H. Res. 352, providing for consideration of H.R. 2389, to restore stability and predictability to the annual payments made to States and counties containing National Forest System lands and public domain lands managed by the Bureau of Land Management for use by the counties for the benefit of public schools, roads (H. Rept. 106–437);

H. Res. 353, providing for consideration of motions to suspend the rules (H. Rept. 106–438);

H. Res. 354, providing for consideration of H.R. 3194, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000 (H. Rept. 106–439); and

H. Res. 355, waiving points of order against the conference report to accompany S. 900, to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers (H. Rept. 106–440). **Pages H11255–H11303, H11371**

Recess: The House recessed at 9:14 a.m. and reconvened at 10:00 a.m. **Page H11204**

Private Calendar: On the call of the Private Calendar, the House passed over without prejudice S. 452, for the relief of Belinda McGregor and H.R. 1023, for the relief of Richard W. Schaffert. **Page H11205**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Acquisition of a Building in Terre Haute, Indiana: H.R. 2513, to direct the Administrator of General Services to acquire a building located in Terre Haute, Indiana; **Pages H11231–34**

Training for a President-elect's Nominees: H.R. 3137, to amend the Presidential Transition Act of 1963 to provide for training of individuals a President-elect intends to nominate as department heads or appoint to key positions in the Executive Office of the President; **Pages H11234–36**

Federal Financial Assistance Improvements: S. 468, amended, to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public; **Pages H11236–40**

Honesty in Sweepstakes: H.R. 170, amended, to require certain notices in any mailing using a game of chance for the promotion of a product or service; **Pages H11240–48**

National Civility Week: H. Res. 324, supporting National Civility Week, Inc. in its efforts to restore

civility, honesty, integrity, and respectful consideration in the United States; **Pages H11248–49**

Participation in the Census: H. Con. Res. 193, expressing the support of Congress for activities to increase public participation in the decennial census; **Pages H11250–55**

Veteran Status for Zachary Fisher: H. J. Res. 46, conferring status as an honorary veteran of the United States Armed Forces on Zachary Fisher; **Pages H11304–16**

Antitrust Technical Corrections: H.R. 1801, amended, to make technical corrections to various antitrust laws and to references to such laws; **Pages H11318–21**

Nursing Care in Disadvantaged Areas: Agreed to the Senate amendment to H.R. 441, to amend the Immigration and Nationality Act with respect to the requirements for the admission of nonimmigrant nurses who will practice in health professional shortage areas—clearing the measure for the President; **Pages H11321–24**

Prayers and Invocations at Public School Sporting Events: H. Con. Res. 199, expressing the sense of the Congress that prayers and invocations at public school sporting events contribute to the moral foundation of our Nation and urging the Supreme Court to uphold their constitutionality; **Pages H11325–30**

Financial Literacy Training: H. Con. Res. 213, encouraging the Secretary of Education to promote, and State and local educational agencies to incorporate in their education programs, financial literacy training (agreed to by a yea and nay vote of 411 yeas to 3 nays, Roll No. 553); **Pages H11208–12, H11338–39**

United States Commitment to NATO: H. Res. 59, amended, expressing the sense of the House of Representatives that the United States remains committed to the North Atlantic Treaty Organization (NATO) (agreed to by a yea and nay vote of 278 yeas to 133 nays, with 1 voting ''present'', Roll No. 554); **Pages H11212–18, H11339–40**

Foreign Narcotics Kingpin Designation: H.R. 3164, to provide for the treatment of the actions of certain foreign narcotics traffickers as an unusual and extraordinary threat to the United States for purposes of the International Emergency Economic Powers Act (passed by a yea and nay vote of 385 yeas to 26 nays, Roll No. 555); and **Pages H11218–31, H11340**

Hurricane Floyd Disaster: H. Res. 349, expressing the sense of the House of Representatives that the President should immediately transmit to Congress the President's recommendations for emergency response actions, including appropriate offsets, to provide relief and assistance to the victims of Hurricane Floyd (agreed to by a yea and nay vote of 409 yeas with none voting ''nay'', Roll No. 556). **Pages H11330–38, H11340–41**

Affirming the Loyalty of Asian-Americans: The House agreed to H. Con. Res. 124, expressing the sense of the Congress relating to recent allegations of espionage and illegal campaign financing that have brought into question the loyalty and probity of Americans of Asian ancestry. **Pages H11316–18**

Questions of Privilege: Pursuant to Rule IX, Representatives Visclosky, Wise, Kucinich, Traficant, and Kaptur announced their intentions to present questions of the privileges of the House in the form of resolutions that call on the President to abstain from renegotiating international agreements governing antidumping and countervailing measures. The forms of these resolutions appear on pages H11249–50, H11303–04, H11321, and H11324–25

Committee Resignation and Election: Read a letter from Representative Lee wherein she resigned from the Committee on Banking and Financial Services. Subsequently, the House agreed to H. Res. 351 whereby Mr. Ackerman was elected to the Committee. **Page H11341**

Quality Care for the Uninsured: The House agreed to H. Res. 348, providing for the House to disagree to the Senate amendment and agree to a conference on H.R. 2990, to amend the Internal Revenue Code of 1986 to allow individuals greater access to health insurance through a health care tax deduction, a long-term care deduction, and other health-related tax incentives, to amend the Employee Retirement Income Security Act of 1974 to provide access to and choice in health care through association health plans, to amend the Public Health Service Act to create new pooling opportunities for small employers to obtain greater access to health coverage through HealthMarts; to amend title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and the Internal Revenue Code of 1986 to protect consumers in managed care plans and other health coverage. **Pages H11341–44**

Advisory Committee on Student Financial Assistance: The Chair announced the Speaker's appointment, upon the recommendation of the Majority Leader, of Ms. Judith Flink of Illinois to the Advisory Committee on Student Financial Assistance. **Page H11344**

Senate Messages: Message received from the Senate appears on page H11330.

Amendments: Amendments ordered printed pursuant to the rule appear on pages H11372–73.

Quorum Calls—Votes: Four yea and nay votes developed during the proceedings of the House today and appear on pages H11338–39, H11339–40, H11340, and H11340–41. There were no quorum calls.

Adjournment: The House met at 9:00 a.m. and adjourned at 11:15 p.m.

Committee Meetings

MISCELLANEOUS MEASURES

Committee on Commerce: Subcommittee on Finance and Hazardous Materials approved for full Committee action the following bills: H.R. 1954, Rental Fairness Act of 1999; H.R. 887, to amend the Securities and Exchange Act of 1934 to require improved disclosure of corporate charitable contributions; and H.R. 1089, amended, Mutual Fund Tax Awareness Act of 1999.

STALKING PREVENTION AND VICTIM PROTECTION ACT; SMALL BUSINESS LIABILITY REFORM ACT

Committee on the Judiciary: Ordered reported, as amended, H.R. 1869, Stalking Prevention and Victim Protection Act of 1999.

The Committee also continued mark up of H.R. 2366, Small Business Liability Reform Act of 1999.

Committee recessed subject to call.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Forests and Forest Health approved for full Committee action the following bills: H.R. 1680, to provide for the conveyance of Forest Service property in Kern County, California, in exchange for county lands suitable for inclusion in Sequoia National Forest; H.R. 1749, amended, to designate Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System; H.R. 1969, amended, Arizona National Forest Improvement Act of 1990; and H.R. 3089, to provide for a comprehensive scientific review of the current conservation status of the northern spotted owl as a result of implementation of the President's Northwest Forest Plan, which is a national strategy for the recovery of the species on public forest lands.

CONFERENCE REPORT—FINANCIAL SERVICES MODERNIZATION ACT

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany S. 900, Financial Services Modernization Act of 1999, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Leach and Representatives Oxley, LaFalce and Vento.

COUNTY SCHOOLS FUNDING REVITALIZATION ACT

Committee on Rules: Granted, by voice vote, an open rule providing one hour of general debate on H.R. 2389, County Schools Funding Revitalization Act of 1999, equally divided between the chairman and ranking minority member of the Committee on Agriculture. The rule waives all points of order against consideration of the bill. The rule makes in order as an original bill for the purpose of amendment the amendment in the nature of a substitute printed in the Congressional Record and numbered 1, modified by the amendments printed in the report of the Committee on Rules accompanying the resolution. The rule waives all points of order against consideration of the amendment in the nature of a substitute, as modified. The rule provides that the amendment in the nature of a substitute shall be open for amendment at any point. The rule authorizes the Chair to accord priority in recognition to Members who have pre-printed their amendments in the Congressional Record. The rule allows the Chairman of the Committee of the Whole to postpone votes during consideration of the bill, and to reduce voting time to five minutes on a postponed question if the vote follows a fifteen minute vote. Finally, the rule provides one motion to recommit, with or without instructions. Testimony was heard from Representative Goodlatte.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000

Committee on Rules: Granted, by voice vote, a closed rule on H.R. 3194, District of Columbia Appropriations Act, 2000, providing one hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. The rule provides one motion to recommit.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Committee on Rules: Granted, by voice vote, a rule providing that suspensions will be in order at any time on or before the legislative day of Wednesday, November 10, 1999. The rule provides that the object of any motion to suspend the rule shall be announced from the floor at least two hours prior to its consideration. The rule further provides that the

Speaker or his designee will consult with the Minority Leader or his designee on any suspension considered under this resolution.

START-UP SUCCESS ACCOUNTS ACT

Committee on Small Business: Subcommittee on Empowerment held a hearing on H.R. 2373, Start-Up Success Accounts Act of 1999. Testimony was heard from public witnesses.

Joint Meetings

BANKRUPTCY JUDGESHIP

Joint Hearing: Senate Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts concluded joint hearings with the House Committee on the Judiciary Subcommittee on Commercial and Administrative Law to examine the process for requesting new judgeships, after receiving testimony from Representatives Kingston, Castle, Hoyer, and Bryant; Michael J. Melloy, United States District Chief Judge for the Northern District of Iowa, on behalf of the Judicial Conference of the United States; Mary Davies Scott, United States Bankruptcy Judge for the Eastern and Western Districts of Arkansas, on behalf of the National Conference of Bankruptcy Judges; Hugh M. Ray, Andrews and Kurth, Houston, Texas; and Ford Elsaesser, Elsaesser, Jarzabck, Anderson, Marks & Elliott, Sandpoint, Idaho, on behalf of the American Bankruptcy Institute.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1224)*

H.R. 659, to authorize appropriations for the protection of Paoli and Brandywine Battlefields in Pennsylvania, to direct the National Park Service to conduct a special resource study of Paoli and Brandywine Battlefields, to authorize the Valley Forge Museum of the American Revolution at Valley Forge National Historical Park. Signed October 31, 1999. (P.L. 106–86)

COMMITTEE MEETINGS FOR WEDNESDAY, NOVEMBER 3, 1999

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Armed Services: to hold hearings on lessons learned from the military operations conducted as part of Operation Allied Force, and associated relief operations, with respect to Kosovo, 9:30 a.m., SR–222.

Committee on Environment and Public Works: Subcommittee on Fisheries, Wildlife, and Drinking Water, to hold hearings to examine solutions to the policy concerns with respect to Habitat Conservation Plans, 10 a.m., SD–406.

Committee on Foreign Relations: business meeting to consider pending calendar business, 10:30 a.m., SD–419.

Full Committee, to hold hearings to examine issues in promoting United States interests, 2:30 p.m., SD–419.

Committee on Governmental Affairs: business meeting to consider pending calendar business, 10 a.m., SD–628.

Committee on Health, Education, Labor, and Pensions: business meeting to consider pending calendar business, 9:30 a.m., SD–430.

House

Committee on Banking and Financial Services, to mark up H.R. 1095, Debt Relief for Poverty Reduction Act of 1999, 10 a.m., 2128 Rayburn.

Committee on Commerce, Subcommittee on Telecommunications, Trade, and Consumer Protection, hearing on Spamming: The E-Mail You Want To Can, focusing on the following bills: H.R. 3113, Unsolicited Electronic Mail Act of 1999; H.R. 2162, Can Spam Act; and H.R. 1910, E-Mail User Protection Act, 10 a.m., 2123 Rayburn.

Committee on Education and the Workforce, to mark up the following: H.R. 1693, to amend the Fair Labor Standards Act of 1938 to clarify the overtime exemption for employees engaged in fire protection activities; a measure to amend the Welfare to Work Program; and a measure to exempt certain reports from automatic elimination and sunset pursuant to the Federal Reports Elimination and Sunset Act of 1995, 10:30 a.m., 2175 Rayburn.

Committee on Government Reform, Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing on Providing Adequate Housing: Is HUD Fulfilling Its Mission? 10 a.m., 2154 Rayburn.

Committee on the Judiciary, hearing on the following bills: H.R. 2533, Fairness in Telecommunications License Transfers Act of 1999; H.R. 2636, Taxpayer's Defense Act; and H.R. 2701, Justice for MAS Applicants of 1999, 10 a.m., 2141 Rayburn.

Subcommittee on Crime, to mark up H.R. 3125, to prohibit Internet gambling, 9:30 a.m., 2237 Rayburn.

Committee on Resources, oversight hearing on a proposal by the Administration directing U.S. Forest Service to promulgate regulations regarding roadless areas within the National Forest System, 10 a.m.; and to mark up S. 430, Kake Tribal Corporation Land Exchange Act, 1 p.m., 1324 Longworth.

Committee on Science, Subcommittee on Basic Research, to mark up H.R. 2797, Home Page Tax Repeal Act, 2 p.m., 2318 Rayburn.

Committee on Small Business, Subcommittee on Empowerment and the Subcommittee on Rural Enterprises, Business Opportunities and Special Small Business Problems, joint hearing on The Aging of Agriculture: Empowering Young Farmers to Grow for the Future, 2 p.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, oversight hearing on the Coast Guard's search and rescue mission, 10 a.m., 2167 Rayburn.

Subcommittee on Water Resources and Environment, hearing on Harbor and Inland Waterway Financing, 3 p.m., 2167 Rayburn.

Permanent Select Committee on Intelligence, executive hearing on Unauthorized Disclosures of Classified Information: Scope and Seriousness of the Problem, 2 p.m., H–405 Capitol.

Joint Meetings

Commission on Security and Cooperation in Europe: to hold hearings on the Chechen crisis and its implications for Russian Democracy, 10 a.m., 2226, Rayburn Building.

Next Meeting of the SENATE

9:30 a.m., Wednesday, November 3

Senate Chamber

Program for Wednesday: Senate will continue consideration of H.R. 434, African Growth and Opportunity Act. Also, Senate may consider the conference report on S. 900, Financial Services Modernization Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, November 3

House Chamber

Program for Wednesday: Motion to Instruct Conferees on H.R. 2990, Quality Care for the Uninsured Act;

Consideration of H.R. 3194, District of Columbia Appropriations Act, 2000 (closed rule, one hour of general debate); and

Consideration of H.R. 2389, County Schools Funding Revitalization Act of 1999 (open rule, one hour of general debate).

Extensions of Remarks, as inserted in this issue

HOUSE

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Cox, Christopher, Calif., E2243
Gejdenson, Sam, Conn., E2241
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Towns, Edolphus, N.Y., E2239, E2240, E2241
Underwood, Robert A., Guam, E2242

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