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No. 146

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 not to exceed 25 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

RECESS

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

Accordingly (at 9 o'clock and 2 minutes a.m.), the House stood in recess until 10 a.m.

AFTER RECESS

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

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:
O God of power and mercy deliver Your people from every evil; let nothing harm the destiny of this Nation.

Give us the freedom of spirit and the health of mind and body to accomplish the work You have set before us.

May nothing prevent us from making right judgments and placing our trust in You.

Founded on truth, built on justice and animated by love, may this government serve Your people and grow every day toward a more humane balance witnessed by the world.

You are the Lord God living now and forever. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Ohio (Mrs. JONES) come forward and lead the House in the Pledge of Allegiance.

Mrs. JONES 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute requests at the conclusion of legislative business.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair announces that he 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 a 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.

FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4986) to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income.

The Clerk read as follows:

Senate amendment:
Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "FSC Repeal and Extraterritorial Income Exclusion Act of 2000".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REPEAL OF FOREIGN SALES CORPORATION RULES.

Subpart C of part III of subchapter N of chapter 1 (relating to taxation of foreign sales corporations) is hereby repealed.

SEC. 3. TREATMENT OF EXTRATERRITORIAL INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by inserting before section 115 the following new section:

"SEC. 114. EXTRATERRITORIAL INCOME.

"(a) EXCLUSION.—Gross income does not include extraterritorial income.

"(b) EXCEPTION.—Subsection (a) shall not apply to extraterritorial income which is not qualifying foreign trade income as determined under subpart E of part III of subchapter N.

"(c) DISALLOWANCE OF DEDUCTIONS.—

"(1) IN GENERAL.—Any deduction of a taxpayer allocated under paragraph (2) to extraterritorial income of the taxpayer excluded from gross income under subsection (a) shall not be allowed.

"(2) ALLOCATION.—Any deduction of the taxpayer properly apportioned and allocated to the extraterritorial income derived by the taxpayer from any transaction shall be allocated on a proportionate basis between—

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

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.



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“(A) the extraterritorial income derived from such transaction which is excluded from gross income under subsection (a), and

“(B) the extraterritorial income derived from such transaction which is not so excluded.

“(d) DENIAL OF CREDITS FOR CERTAIN FOREIGN TAXES.—Notwithstanding any other provision of this chapter, no credit shall be allowed under this chapter for any income, war profits, and excess profits taxes paid or accrued to any foreign country or possession of the United States with respect to extraterritorial income which is excluded from gross income under subsection (a).

“(e) EXTRATERRITORIAL INCOME.—For purposes of this section, the term ‘extraterritorial income’ means the gross income of the taxpayer attributable to foreign trading gross receipts (as defined in section 942) of the taxpayer.”.

(b) QUALIFYING FOREIGN TRADE INCOME.—Part III of subchapter N of chapter 1 is amended by inserting after subpart D the following new subpart:

“Subpart E—Qualifying Foreign Trade Income

“Sec. 941. Qualifying foreign trade income.

“Sec. 942. Foreign trading gross receipts.

“Sec. 943. Other definitions and special rules.

“SEC. 941. QUALIFYING FOREIGN TRADE INCOME.

“(a) QUALIFYING FOREIGN TRADE INCOME.—For purposes of this subpart and section 114—

“(1) IN GENERAL.—The term ‘qualifying foreign trade income’ means, with respect to any transaction, the amount of gross income which, if excluded, will result in a reduction of the taxable income of the taxpayer from such transaction equal to the greatest of—

“(A) 30 percent of the foreign sale and leasing income derived by the taxpayer from such transaction,

“(B) 1.2 percent of the foreign trading gross receipts derived by the taxpayer from the transaction, or

“(C) 15 percent of the foreign trade income derived by the taxpayer from the transaction. In no event shall the amount determined under subparagraph (B) exceed 200 percent of the amount determined under subparagraph (C).

“(2) ALTERNATIVE COMPUTATION.—A taxpayer may compute its qualifying foreign trade income under a subparagraph of paragraph (1) other than the subparagraph which results in the greatest amount of such income.

“(3) LIMITATION ON USE OF FOREIGN TRADING GROSS RECEIPTS METHOD.—If any person computes its qualifying foreign trade income from any transaction with respect to any property under paragraph (1)(B), the qualifying foreign trade income of such person (or any related person) with respect to any other transaction involving such property shall be zero.

“(4) RULES FOR MARGINAL COSTING.—The Secretary shall prescribe regulations setting forth rules for the allocation of expenditures in computing foreign trade income under paragraph (1)(C) in those cases where a taxpayer is seeking to establish or maintain a market for qualifying foreign trade property.

“(5) PARTICIPATION IN INTERNATIONAL BOYCOTTS, ETC.—Under regulations prescribed by the Secretary, the qualifying foreign trade income of a taxpayer for any taxable year shall be reduced (but not below zero) by the sum of—

“(A) an amount equal to such income multiplied by the international boycott factor determined under section 999, and

“(B) any illegal bribe, kickback, or other payment (within the meaning of section 162(c)) paid by or on behalf of the taxpayer directly or indirectly to an official, employee, or agent in fact of a government.

“(b) FOREIGN TRADE INCOME.—For purposes of this subpart—

“(1) IN GENERAL.—The term ‘foreign trade income’ means the taxable income of the taxpayer attributable to foreign trading gross receipts of the taxpayer.

“(2) SPECIAL RULE FOR COOPERATIVES.—In any case in which an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products sells qualifying foreign trade property, in computing the taxable income of such cooperative, there shall not be taken into account any deduction allowable under subsection (b) or (c) of section 1382 (relating to patronage dividends, per-unit retain allocations, and nonpatronage distributions).

“(c) FOREIGN SALE AND LEASING INCOME.—For purposes of this section—

“(1) IN GENERAL.—The term ‘foreign sale and leasing income’ means, with respect to any transaction—

“(A) foreign trade income properly allocable to activities which—

“(i) are described in paragraph (2)(A)(i) or (3) of section 942(b), and

“(ii) are performed by the taxpayer (or any person acting under a contract with such taxpayer) outside the United States, or

“(B) foreign trade income derived by the taxpayer in connection with the lease or rental of qualifying foreign trade property for use by the lessee outside the United States.

“(2) SPECIAL RULES FOR LEASED PROPERTY.—

“(A) SALES INCOME.—The term ‘foreign sale and leasing income’ includes any foreign trade income derived by the taxpayer from the sale of property described in paragraph (1)(B).

“(B) LIMITATION IN CERTAIN CASES.—Except as provided in regulations, in the case of property which—

“(i) was manufactured, produced, grown, or extracted by the taxpayer, or

“(ii) was acquired by the taxpayer from a related person for a price which was not determined in accordance with the rules of section 482,

the amount of foreign trade income which may be treated as foreign sale and leasing income under paragraph (1)(B) or subparagraph (A) of this paragraph with respect to any transaction involving such property shall not exceed the amount which would have been determined if the taxpayer had acquired such property for the price determined in accordance with the rules of section 482.

“(3) SPECIAL RULES.—

“(A) EXCLUDED PROPERTY.—Foreign sale and leasing income shall not include any income properly allocable to excluded property described in subparagraph (B) of section 943(a)(3) (relating to intangibles).

“(B) ONLY DIRECT EXPENSES TAKEN INTO ACCOUNT.—For purposes of this subsection, any expense other than a directly allocable expense shall not be taken into account in computing foreign trade income.

“SEC. 942. FOREIGN TRADING GROSS RECEIPTS.

“(a) FOREIGN TRADING GROSS RECEIPTS.—

“(1) IN GENERAL.—Except as otherwise provided in this section, for purposes of this subpart, the term ‘foreign trading gross receipts’ means the gross receipts of the taxpayer which are—

“(A) from the sale, exchange, or other disposition of qualifying foreign trade property,

“(B) from the lease or rental of qualifying foreign trade property for use by the lessee outside the United States,

“(C) for services which are related and subsidiary to—

“(i) any sale, exchange, or other disposition of qualifying foreign trade property by such taxpayer, or

“(ii) any lease or rental of qualifying foreign trade property described in subparagraph (B) by such taxpayer,

“(D) for engineering or architectural services for construction projects located (or proposed for location) outside the United States, or

“(E) for the performance of managerial services for a person other than a related person in furtherance of the production of foreign trading

gross receipts described in subparagraph (A), (B), or (C).

Subparagraph (E) shall not apply to a taxpayer for any taxable year unless at least 50 percent of its foreign trading gross receipts (determined without regard to this sentence) for such taxable year is derived from activities described in subparagraph (A), (B), or (C).

“(2) CERTAIN RECEIPTS EXCLUDED ON BASIS OF USE; SUBSIDIZED RECEIPTS EXCLUDED.—The term ‘foreign trading gross receipts’ shall not include receipts of a taxpayer from a transaction if—

“(A) the qualifying foreign trade property or services—

“(i) are for ultimate use in the United States, or

“(ii) are for use by the United States or any instrumentality thereof and such use of qualifying foreign trade property or services is required by law or regulation, or

“(B) such transaction is accomplished by a subsidy granted by the government (or any instrumentality thereof) of the country or possession in which the property is manufactured, produced, grown, or extracted.

“(3) ELECTION TO EXCLUDE CERTAIN RECEIPTS.—The term ‘foreign trading gross receipts’ shall not include gross receipts of a taxpayer from a transaction if the taxpayer elects not to have such receipts taken into account for purposes of this subpart.

“(b) FOREIGN ECONOMIC PROCESS REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in subsection (c), a taxpayer shall be treated as having foreign trading gross receipts from any transaction only if economic processes with respect to such transaction take place outside the United States as required by paragraph (2).

“(2) REQUIREMENT.—

“(A) IN GENERAL.—The requirements of this paragraph are met with respect to the gross receipts of a taxpayer derived from any transaction if—

“(i) such taxpayer (or any person acting under a contract with such taxpayer) has participated outside the United States in the solicitation (other than advertising), the negotiation, or the making of the contract relating to such transaction, and

“(ii) the foreign direct costs incurred by the taxpayer attributable to the transaction equal or exceed 50 percent of the total direct costs attributable to the transaction.

“(B) ALTERNATIVE 85-PERCENT TEST.—A taxpayer shall be treated as satisfying the requirements of subparagraph (A)(ii) with respect to any transaction if, with respect to each of at least 2 subparagraphs of paragraph (3), the foreign direct costs incurred by such taxpayer attributable to activities described in such subparagraph equal or exceed 85 percent of the total direct costs attributable to activities described in such subparagraph.

“(C) DEFINITIONS.—For purposes of this paragraph—

“(i) TOTAL DIRECT COSTS.—The term ‘total direct costs’ means, with respect to any transaction, the total direct costs incurred by the taxpayer attributable to activities described in paragraph (3) performed at any location by the taxpayer or any person acting under a contract with such taxpayer.

“(ii) FOREIGN DIRECT COSTS.—The term ‘foreign direct costs’ means, with respect to any transaction, the portion of the total direct costs which are attributable to activities performed outside the United States.

“(3) ACTIVITIES RELATING TO QUALIFYING FOREIGN TRADE PROPERTY.—The activities described in this paragraph are any of the following with respect to qualifying foreign trade property—

“(A) advertising and sales promotion,

“(B) the processing of customer orders and the arranging for delivery,

“(C) transportation outside the United States in connection with delivery to the customer,

“(D) the determination and transmittal of a final invoice or statement of account or the receipt of payment, and

“(E) the assumption of credit risk.

“(4) ECONOMIC PROCESSES PERFORMED BY RELATED PERSONS.—A taxpayer shall be treated as meeting the requirements of this subsection with respect to any sales transaction involving any property if any related person has met such requirements in such transaction or any other sales transaction involving such property.

“(C) EXCEPTION FROM FOREIGN ECONOMIC PROCESS REQUIREMENT.—

“(1) IN GENERAL.—The requirements of subsection (b) shall be treated as met for any taxable year if the foreign trading gross receipts of the taxpayer for such year do not exceed \$5,000,000.

“(2) RECEIPTS OF RELATED PERSONS AGGREGATED.—All related persons shall be treated as one person for purposes of paragraph (1), and the limitation under paragraph (1) shall be allocated among such persons in a manner provided in regulations prescribed by the Secretary.

“(3) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership, S corporation, or other pass-thru entity, the limitation under paragraph (1) shall apply with respect to the partnership, S corporation, or entity and with respect to each partner, shareholder, or other owner.

“SEC. 943. OTHER DEFINITIONS AND SPECIAL RULES.

“(a) QUALIFYING FOREIGN TRADE PROPERTY.—For purposes of this subpart—

“(1) IN GENERAL.—The term ‘qualifying foreign trade property’ means property—

“(A) manufactured, produced, grown, or extracted within or outside the United States,

“(B) held primarily for sale, lease, or rental, in the ordinary course of trade or business for direct use, consumption, or disposition outside the United States, and

“(C) not more than 50 percent of the fair market value of which is attributable to—

“(i) articles manufactured, produced, grown, or extracted outside the United States, and

“(ii) direct costs for labor (determined under the principles of section 263A) performed outside the United States.

For purposes of subparagraph (C), the fair market value of any article imported into the United States shall be its appraised value, as determined by the Secretary under section 402 of the Tariff Act of 1930 (19 U.S.C. 1401a) in connection with its importation, and the direct costs for labor under clause (ii) do not include costs that would be treated under the principles of section 263A as direct labor costs attributable to articles described in clause (i).

“(2) U.S. TAXATION TO ENSURE CONSISTENT TREATMENT.—Property which (without regard to this paragraph) is qualifying foreign trade property and which is manufactured, produced, grown, or extracted outside the United States shall be treated as qualifying foreign trade property only if it is manufactured, produced, grown, or extracted by—

“(A) a domestic corporation,

“(B) an individual who is a citizen or resident of the United States,

“(C) a foreign corporation with respect to which an election under subsection (e) (relating to foreign corporations electing to be subject to United States taxation) is in effect, or

“(D) a partnership or other pass-thru entity all of the partners or owners of which are described in subparagraph (A), (B), or (C).

Except as otherwise provided by the Secretary, tiered partnerships or pass-thru entities shall be treated as described in subparagraph (D) if each of the partnerships or entities is directly or indirectly wholly owned by persons described in subparagraph (A), (B), or (C).

“(3) EXCLUDED PROPERTY.—The term ‘qualifying foreign trade property’ shall not include—

“(A) property leased or rented by the taxpayer for use by any related person,

“(B) patents, inventions, models, designs, formulas, or processes whether or not patented, copyrights (other than films, tapes, records, or

similar reproductions, and other than computer software (whether or not patented), for commercial or home use), goodwill, trademarks, trade brands, franchises, or other like property,

“(C) oil or gas (or any primary product thereof),

“(D) products the transfer of which is prohibited or curtailed to effectuate the policy set forth in paragraph (2)(C) of section 3 of Public Law 96-72, or

“(E) any unprocessed timber which is a softwood.

For purposes of subparagraph (E), the term ‘unprocessed timber’ means any log, cant, or similar form of timber.

“(4) PROPERTY IN SHORT SUPPLY.—If the President determines that the supply of any property described in paragraph (1) is insufficient to meet the requirements of the domestic economy, the President may by Executive order designate the property as in short supply. Any property so designated shall not be treated as qualifying foreign trade property during the period beginning with the date specified in the Executive order and ending with the date specified in an Executive order setting forth the President’s determination that the property is no longer in short supply.

“(b) OTHER DEFINITIONS AND RULES.—For purposes of this subpart—

“(1) TRANSACTION.—

“(A) IN GENERAL.—The term ‘transaction’ means—

“(i) any sale, exchange, or other disposition,

“(ii) any lease or rental, and

“(iii) any furnishing of services.

“(B) GROUPING OF TRANSACTIONS.—To the extent provided in regulations, any provision of this subpart which, but for this subparagraph, would be applied on a transaction-by-transaction basis may be applied by the taxpayer on the basis of groups of transactions based on product lines or recognized industry or trade usage. Such regulations may permit different groupings for different purposes.

“(2) UNITED STATES DEFINED.—The term ‘United States’ includes the Commonwealth of Puerto Rico. The preceding sentence shall not apply for purposes of determining whether a corporation is a domestic corporation.

“(3) RELATED PERSON.—A person shall be related to another person if such persons are treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414, except that determinations under subsections (a) and (b) of section 52 shall be made without regard to section 1563(b).

“(4) GROSS AND TAXABLE INCOME.—Section 114 shall not be taken into account in determining the amount of gross income or foreign trade income from any transaction.

“(c) SOURCE RULE.—Under regulations, in the case of qualifying foreign trade property manufactured, produced, grown, or extracted within the United States, the amount of income of a taxpayer from any sales transaction with respect to such property which is treated as from sources without the United States shall not exceed—

“(1) in the case of a taxpayer computing its qualifying foreign trade income under section 941(a)(1)(B), the amount of the taxpayer’s foreign trade income which would (but for this subsection) be treated as from sources without the United States if the foreign trade income were reduced by an amount equal to 4 percent of the foreign trading gross receipts with respect to the transaction, and

“(2) in the case of a taxpayer computing its qualifying foreign trade income under section 941(a)(1)(C), 50 percent of the amount of the taxpayer’s foreign trade income which would (but for this subsection) be treated as from sources without the United States.

“(d) TREATMENT OF WITHHOLDING TAXES.—

“(1) IN GENERAL.—For purposes of section 114(d), any withholding tax shall not be treated as paid or accrued with respect to

extraterritorial income which is excluded from gross income under section 114(a). For purposes of this paragraph, the term ‘withholding tax’ means any tax which is imposed on a basis other than residence and for which credit is allowable under section 901 or 903.

“(2) EXCEPTION.—Paragraph (1) shall not apply to any taxpayer with respect to extraterritorial income from any transaction if the taxpayer computes its qualifying foreign trade income with respect to the transaction under section 941(a)(1)(A).

“(e) ELECTION TO BE TREATED AS DOMESTIC CORPORATION.—

“(1) IN GENERAL.—An applicable foreign corporation may elect to be treated as a domestic corporation for all purposes of this title if such corporation waives all benefits to such corporation granted by the United States under any treaty. No election under section 1362(a) may be made with respect to such corporation.

“(2) APPLICABLE FOREIGN CORPORATION.—For purposes of paragraph (1), the term ‘applicable foreign corporation’ means any foreign corporation if—

“(A) such corporation manufactures, produces, grows, or extracts property in the ordinary course of such corporation’s trade or business, or

“(B) substantially all of the gross receipts of such corporation are foreign trading gross receipts.

“(3) PERIOD OF ELECTION.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked by the taxpayer. Any revocation of such election shall apply to taxable years beginning after such revocation.

“(B) TERMINATION.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraph (A) or (B) of paragraph (2) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

“(C) EFFECT OF REVOCATION OR TERMINATION.—If a corporation which made an election under paragraph (1) revokes such election or such election is terminated under subparagraph (B), such corporation (and any successor corporation) may not make such election for any of the 5 taxable years beginning with the first taxable year for which such election is not in effect as a result of such revocation or termination.

“(4) SPECIAL RULES.—

“(A) REQUIREMENTS.—This subsection shall not apply to an applicable foreign corporation if such corporation fails to meet the requirements (if any) which the Secretary may prescribe to ensure that the taxes imposed by this chapter on such corporation are paid.

“(B) EFFECT OF ELECTION, REVOCATION, AND TERMINATION.—

“(i) ELECTION.—For purposes of section 367, a foreign corporation making an election under this subsection shall be treated as transferring (as of the first day of the first taxable year to which the election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

“(ii) REVOCATION AND TERMINATION.—For purposes of section 367, if—

“(I) an election is made by a corporation under paragraph (1) for any taxable year, and

“(II) such election ceases to apply for any subsequent taxable year, such corporation shall be treated as a domestic corporation transferring (as of the 1st day of the first such subsequent taxable year to which such election ceases to apply) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

“(C) ELIGIBILITY FOR ELECTION.—The Secretary may by regulation designate one or more classes of corporations which may not make the election under this subsection.

“(f) RULES RELATING TO ALLOCATIONS OF QUALIFYING FOREIGN TRADE INCOME FROM SHARED PARTNERSHIPS.—

“(1) IN GENERAL.—If—

“(A) a partnership maintains a separate account for transactions (to which this subpart applies) with each partner,

“(B) distributions to each partner with respect to such transactions are based on the amounts in the separate account maintained with respect to such partner, and

“(C) such partnership meets such other requirements as the Secretary may by regulations prescribe,

then such partnership shall allocate to each partner items of income, gain, loss, and deduction (including qualifying foreign trade income) from any transaction to which this subpart applies on the basis of such separate account.

“(2) SPECIAL RULES.—For purposes of this subpart, in the case of a partnership to which paragraph (1) applies—

“(A) any partner’s interest in the partnership shall not be taken into account in determining whether such partner is a related person with respect to any other partner, and

“(B) the election under section 942(a)(3) shall be made separately by each partner with respect to any transaction for which the partnership maintains separate accounts for each partner.

“(g) EXCLUSION FOR PATRONS OF AGRICULTURAL AND HORTICULTURAL COOPERATIVES.—Any amount described in paragraph (1) or (3) of section 1385(a)—

“(1) which is received by a person from an organization to which part I of subchapter T applies which is engaged in the marketing of agricultural or horticultural products, and

“(2) which is allocable to qualifying foreign trade income and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(d),

shall be treated as qualifying foreign trade income of such person for purposes of section 114. The taxable income of the organization shall not be reduced under section 1382 by reason of any amount to which the preceding sentence applies.

“(h) SPECIAL RULE FOR DISCS.—Section 114 shall not apply to any taxpayer for any taxable year if, at any time during the taxable year, the taxpayer is a member of any controlled group of corporations (as defined in section 927(d)(4), as in effect before the date of the enactment of this subsection) of which a DISC is a member.”

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS.

(1) The second sentence of section 56(g)(4)(B)(i) is amended by inserting before the period “or under section 114”.

(2) Section 275(a) is amended—

(A) by striking “or” at the end of paragraph (4)(A), by striking the period at the end of paragraph (4)(B) and inserting “, or”, and by adding at the end of paragraph (4) the following new subparagraph:

“(C) such taxes are paid or accrued with respect to qualifying foreign trade income (as defined in section 941).”; and

(B) by adding at the end the following the following new sentence: “A rule similar to the rule of section 943(d) shall apply for purposes of paragraph (4)(C).”.

(3) Paragraph (3) of section 864(e) is amended—

(A) by striking “For purposes of” and inserting:

“(A) IN GENERAL.—For purposes of”; and

(B) by adding at the end the following new subparagraph:

“(B) ASSETS PRODUCING EXEMPT EXTRATERRITORIAL INCOME.—For purposes of allocating and apportioning any interest expense, there shall not be taken into account any qualifying foreign trade property (as defined in section 943(a)) which is held by the taxpayer for lease or rental in the ordinary course of trade or business for use by the lessee outside the United States (as defined in section 943(b)(2)).”.

(4) Section 903 is amended by striking “164(a)” and inserting “114, 164(a).”.

(5) Section 999(c)(1) is amended by inserting “941(a)(5),” after “908(a).”.

(6) The table of sections for part III of subchapter B of chapter 1 is amended by inserting before the item relating to section 115 the following new item:

“Sec. 114. Extraterritorial income.”.

(7) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart E and inserting the following new item:

“Subpart E. Qualifying foreign trade income.”.

(8) The table of subparts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart C.

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall apply to transactions after September 30, 2000.

(b) NO NEW FSCS; TERMINATION OF INACTIVE FSCS.—

(1) NO NEW FSCS.—No corporation may elect after September 30, 2000, to be a FSC (as defined in section 922 of the Internal Revenue Code of 1986, as in effect before the amendments made by this Act).

(2) TERMINATION OF INACTIVE FSCS.—If a FSC has no foreign trade income (as defined in section 923(b) of such Code, as so in effect) for any period of 5 consecutive taxable years beginning after December 31, 2001, such FSC shall cease to be treated as a FSC for purposes of such Code for any taxable year beginning after such period.

(c) TRANSITION PERIOD FOR EXISTING FOREIGN SALES CORPORATIONS.—

(1) IN GENERAL.—In the case of a FSC (as so defined) in existence on September 30, 2000, and at all times thereafter, the amendments made by this Act shall not apply to any transaction in the ordinary course of trade or business involving a FSC which occurs—

(A) before January 1, 2002; or

(B) after December 31, 2001, pursuant to a binding contract—

(i) which is between the FSC (or any related person) and any person which is not a related person; and

(ii) which is in effect on September 30, 2000, and at all times thereafter.

For purposes of this paragraph, a binding contract shall include a purchase option, renewal option, or replacement option which is included in such contract and which is enforceable against the seller or lessor.

(2) ELECTION TO HAVE AMENDMENTS APPLY EARLIER.—A taxpayer may elect to have the amendments made by this Act apply to any transaction by a FSC or any related person to which such amendments would apply but for the application of paragraph (1). Such election shall be effective for the taxable year for which made and all subsequent taxable years, and, once made, may be revoked only with the consent of the Secretary of the Treasury.

(3) EXCEPTION FOR OLD EARNINGS AND PROFITS OF CERTAIN CORPORATIONS.—

(A) IN GENERAL.—In the case of a foreign corporation to which this paragraph applies—

(i) earnings and profits of such corporation accumulated in taxable years ending before October 1, 2000, shall not be included in the gross income of the persons holding stock in such corporation by reason of section 943(e)(4)(B)(i), and

(ii) rules similar to the rules of clauses (ii), (iii), and (iv) of section 953(d)(4)(B) shall apply with respect to such earnings and profits. The preceding sentence shall not apply to earnings and profits acquired in a transaction after September 30, 2000, to which section 381 applies unless the distributor or transferor corporation was immediately before the transaction a foreign corporation to which this paragraph applies.

(B) EXISTING FSCS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957) if—

(i) such corporation is a FSC (as so defined) in existence on September 30, 2000,

(ii) such corporation is eligible to make the election under section 943(e) by reason of being described in paragraph (2)(B) of such section, and

(iii) such corporation makes such election not later than for its first taxable year beginning after December 31, 2001.

(C) OTHER CORPORATIONS.—This paragraph shall apply to any controlled foreign corporation (as defined in section 957), and such corporation shall (notwithstanding any provision of section 943(e)) be treated as an applicable foreign corporation for purposes of section 943(e), if—

(i) such corporation is in existence on September 30, 2000,

(ii) as of such date, such corporation is wholly owned (directly or indirectly) by a domestic corporation (determined without regard to any election under section 943(e)),

(iii) for each of the 3 taxable years preceding the first taxable year to which the election under section 943(e) by such controlled foreign corporation applies—

(I) all of the gross income of such corporation is subpart F income (as defined in section 952), including by reason of section 954(b)(3)(B), and

(II) in the ordinary course of such corporation’s trade or business, such corporation regularly sold (or paid commissions) to a FSC which on September 30, 2000, was a related person to such corporation,

(iv) such corporation has never made an election under section 922(a)(2) (as in effect before the date of the enactment of this paragraph) to be treated as a FSC, and

(v) such corporation makes the election under section 943(e) not later than for its first taxable year beginning after December 31, 2001.

The preceding sentence shall cease to apply as of the date that the domestic corporation referred to in clause (ii) ceases to wholly own (directly or indirectly) such controlled foreign corporation.

(4) RELATED PERSON.—For purposes of this subsection, the term “related person” has the meaning given to such term by section 943(b)(3).

(5) SECTION REFERENCES.—Except as otherwise expressly provided, any reference in this subsection to a section or other provision shall be considered to be a reference to a section or other provision of the Internal Revenue Code of 1986, as amended by this Act.

(d) SPECIAL RULES RELATING TO LEASING TRANSACTIONS.—

(1) SALES INCOME.—If foreign trade income in connection with the lease or rental of property described in section 927(a)(1)(B) of such Code (as in effect before the amendments made by this Act) is treated as exempt foreign trade income for purposes of section 921(a) of such Code (as so in effect), such property shall be treated as property described in section 941(c)(1)(B) of such Code (as added by this Act) for purposes of applying section 941(c)(2) of such Code (as so added) to any subsequent transaction involving such property to which the amendments made by this Act apply.

(2) LIMITATION ON USE OF GROSS RECEIPTS METHOD.—If any person computed its foreign trade income from any transaction with respect to any property on the basis of a transfer price determined under the method described in section 925(a)(1) of such Code (as in effect before the amendments made by this Act), then the qualifying foreign trade income (as defined in section 941(a) of such Code, as in effect after such amendment) of such person (or any related person) with respect to any other transaction involving such property (and to which the amendments made by this Act apply) shall be zero.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Texas (Mr. ARCHER) and the gentleman from California (Mr. STARK) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

GENERAL LEAVE

Mr. ARCHER. 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. 4986.

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

There was no objection.

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

Mr. Speaker, today the House is, once again, considering one of the most important bills of this Congress. It is critical for the continued U.S. competitiveness in the global marketplace. It is critical for our Nation's economic security. Most important, it is critical to preserve as many as 5 million jobs for American workers and their families. That is right, almost 5 million jobs hang in the balance.

Why? Because the U.S. has an ill-advised, antiquated system that overtaxes our businesses when they operate overseas and when they export, placing them at a gigantic disadvantage against their foreign competitors. This bill only partially addresses that gigantic disadvantage, a disadvantage so great that it is causing major U.S. businesses one by one to move overseas instead of being headquartered in the United States of America. This was evidenced recently by Chrysler becoming a German-based corporation, no longer headquartered in the U.S.

Mr. Speaker, we must pass this bill and have it signed into law immediately if we are to avert what could be the mother of all trade wars with the European Union. Last summer, the World Trade Organization ruled that our foreign sales corporation provisions in the U.S. Tax Code violated global trading rules. The U.S. appealed the decision, but lost; and the WTO set an original deadline of October 1 for the U.S. to comply with the decision. Despite a heroic effort by a bipartisan majority of members on the Committee on Ways and Means, the Senate Finance Committee, the White House, the Treasury, and the work of the Joint Committee on Taxation, we were unable to meet the October 1 deadline.

Now, to avoid immediate retaliation by the EU, the U.S. entered into an agreement with the EU which moved the deadline to November 1. Now that has also passed by. If we do not have this legislation signed into law by November 17, the EU will begin the ugly and devastating process of trade retaliation against American products, our workers, and our businesses. The clock is ticking, and only by acting now can we avoid a transatlantic trade war which will be destructive to all parties, perhaps to the world. There will be no winners in such a war, only losers; and

the biggest losers will be American workers whose products will no longer have access to the European market on a competitive basis.

Moreover, I believe that passage of this legislation today, which reflects a bipartisan compromise with the Senate, fully agreed to by the administration, will put us into compliance so that we can avoid retaliation, even if the EU should challenge the substance of the underlying proposal.

Mr. Speaker, we have had a remarkable economic surge in the past few years. Failing to act on this legislation could very well halt and even reverse that progress. We cannot risk that happening.

The substance of the Senate amendment to H.R. 4986 is identical to title I of H.R. 5542, the "Taxpayer Relief Act of 2000," incorporated by reference into the conference report on H.R. 2614. The Senate amendment, like the language in the conference report on H.R. 2614, is a compromise between the versions of H.R. 4986 passed by the House and reported by the Finance Committee. Since the statutory language has been modified slightly from the version of H.R. 4986 reported by the Committee on Ways and Means, I am introducing into the RECORD an explanation of the Senate amendment prepared by the staff of the Joint Committee on Taxation. This explanation is substantially identical to the relevant Statement of Managers language in H.R. 2614. Senator ROTH has similarly endorsed this explanation. Accordingly, taxpayers are welcome to rely on this explanation (or, for that matter, the Statement of Managers language in H.R. 2614) for guidance in interpreting the statute.

TECHNICAL EXPLANATION OF THE SENATE AMENDMENT TO H.R. 4986, THE "FSC REAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000"

I. INTRODUCTION

This document, prepared by the staff of the Joint Committee on Taxation, is a technical explanation of H.R. 4986 as passed by the Senate on November 1, 2000. H.R. 4986 was passed by the House of Representatives on September 13, 2000. The Senate Finance Committee favorably reported the bill with an amendment on September 19, 2000. The conference agreement to H.R. 2614 included legislation that resolved the differences between the House and Senate on this matter. The Senate amendment to H.R. 4986, as passed by the Senate on November 1, 2000, adopts the compromise language of the conference agreement to H.R. 2614.

II. OVERVIEW OF PRESENT-LAW FOREIGN SALES CORPORATION RULES

Summary of U.S. income taxation of foreign persons

Income earned by a foreign corporation from its foreign operations generally is subject to U.S. tax only when such income is distributed to a U.S. person that hold stock in such corporation. Accordingly, a U.S. person that conducts foreign operations through a foreign corporation generally is subject to U.S. tax on the income from those operations when the income is repatriated to the United States through a dividend distribution to the U.S. person. The income is reported on the U.S. person's tax return for the year the distribution is received, and the United States imposes tax on such income at that time. An indirect foreign tax credit may reduce the U.S. tax imposed on such income.

Foreign sales corporations

The income of an eligible foreign sales corporation ("FSC") is partially subject to U.S. income tax and partially exempt from U.S. income tax. In addition, a U.S. corporation generally is not subject to U.S. income tax on dividends distributed from the FSC out of certain earnings.

A FSC must be located and managed outside the United States, and must perform certain economic processes outside the United States. A FSC is often owned by a U.S. corporation that produces goods in the United States. The U.S. corporation either supplies goods to the FSC for resale abroad or pays the FSC a commission in connection with such sales. The income of the FSC, a portion of which is exempt from U.S. income tax under the FSC rules, equals the FSC's gross markup or gross commission income less the expenses incurred by the FSC. The gross markup or the gross commission is determined according to specified pricing rules.

A FSC generally is not subject to U.S. income tax on its exempt foreign trade income. The exempt foreign trade income of a FSC is treated as foreign-source income that is not effectively connected with the conduct of a trade or business within the United States.

Foreign trade income, other than exempt foreign trade income, generally is treated as U.S.-source income effectively connected with the conduct of a trade or business conducted through a permanent establishment within the United States. Thus, a FSC's income, other than exempt foreign trade income, generally is subject to U.S. tax currently and is treated as U.S.-source income for purposes of the foreign tax credit limitation.

Foreign trade income of a FSC is defined as the FSC's gross income attributable to foreign trading gross receipts. Foreign trading gross receipts generally are the gross receipts attributable to the following types of transactions: the sale of export property; the lease or rental of export property; services related and subsidiary to such a sale or lease of export property; engineering and architectural services for projects outside the United States; and export management services. Investment income and carrying charges are excluded from the definition of foreign trading gross receipts.

The term "export property" generally means property (1) which is manufactured, produced, grown or extracted in the United States by a person other than a FSC; (2) which is held primarily for sale, lease, or rental in the ordinary course of a trade or business for direct use or consumption outside the United States; and (3) not more than 50 percent of the fair market value of which is attributable to articles imported into the United States. The term "export property" does not include property leased or rented by a FSC for use by any member of a controlled group of which the FSC is a member; patents, copyrights (other than films, tapes, records, similar reproductions, and other than computer software, whether or not patented), and other intangibles; oil or gas (or any primary product thereof); unprocessed softwood timber; or products the export of which is prohibited or curtailed. Export property also excludes property designated by the President as being in short supply.

If export property is sold to a FSC by a related person (or a commission is paid by a related person to a FSC with respect to export property), the income with respect to the export transaction must be allocated between the FSC and the related person. The taxable income of the FSC and the taxable income of the related person are computed based upon

a transfer price determined under section 482 or under one of two formulas specified in the FSC provisions.

The portion of a FSC's foreign trade income that is treated as exempt foreign trade income depends on the pricing rule used to determine the income of the FSC. If the amount of income earned by the FSC is based on section 482 pricing, the exempt foreign trade income generally is 30 percent of the foreign trade income the FSC derives from a transaction. If the income earned by the FSC is determined under one of the two formulas specified in the FSC provisions, the exempt foreign trade income generally is 15/23 of the foreign trade income the FSC derives from the transaction.

A FSC is not required or deemed to make distributions to its shareholders. Actual distributions are treated as being made first out of earnings and profits attributable to foreign trade income, and then out of any other earnings and profits. A U.S. corporation generally is allowed a 100 percent dividends-received deduction for amounts distributed from a FSC out of earnings and profits attributable to foreign trade income. The 100 percent dividends-received deduction is not allowed for nonexempt foreign trade income determined under section 482 pricing. Any distributions made by a FSC out of earnings and profits attributable to foreign trade income to a foreign shareholder is treated as U.S.-source income that is effectively connected with a business conducted through a permanent establishment of the shareholder within the United States. Thus, the foreign shareholder is subject to U.S. tax on such a distribution.

III. TECHNICAL EXPLANATION OF THE SENATE AMENDMENT TO H.R. 4986

Overview

The Senate amendment repeals the present-law FSC rules and replaces them with an exclusion for extraterritorial income. The Senate amendment, like the Senate Finance Committee reported version of the bill, does not include the provision in the House bill that provides a dividends-received deduction for certain dividends allocable to qualifying foreign trade income. The Senate amendment adopts the compromise language of the conference agreement to H.R. 2614.

Repeal of the FSC rules

The Senate amendment repeals the present-law FSC rules found in sections 921 through 927 of the Code.

Exclusion of extraterritorial income

The Senate amendment provides that gross income for U.S. tax purposes does not include extraterritorial income. Because the exclusion of such extraterritorial income is a means of avoiding double taxation, no foreign tax credit is allowed for income taxes paid with respect to such excluded income. Extraterritorial income is eligible for the exclusion to the extent that it is "qualifying foreign trade income." Because U.S. income tax principles generally deny deductions for expenses related to exempt income, otherwise deductible expenses that are allocated to qualifying foreign trade income generally are disallowed.

The Senate amendment applies in the same manner with respect to both individuals and corporations who are U.S. taxpayers. In addition, the exclusion from gross income applies for individual and corporate alternative minimum tax purposes.

Qualifying foreign trade income

Under the Senate amendment, qualifying foreign trade income is the amount of gross income that, if excluded, would result in a reduction of taxable income by the greatest of (1) 1.2 percent of the "foreign trading

gross receipts" derived by the taxpayer from the transaction, (2) 15 percent of the "foreign trade income" derived by the taxpayer from the transaction, or (3) 30 percent of the "foreign sale and leasing income" derived by the taxpayer from the transaction. The amount of qualifying foreign trade income derived using 1.2 percent of the foreign trading gross receipts is limited to 200 percent of the qualifying foreign trade income that would result using 15 percent of the foreign trade income. Notwithstanding the general rule that qualifying foreign trade income is based on one of the three calculations that results in the greatest reduction in taxable income, a taxpayer may choose instead to use one of the other two calculations that does not result in the greatest reduction in taxable income. Although these calculations are determined by reference to a reduction of taxable income (a net income concept), qualifying foreign trade income is an exclusion from gross income. Hence, once a taxpayer determines the appropriate reduction of taxable income, that amount must be "grossed up" for related expenses in order to determine the amount of gross income excluded.

If a taxpayer uses 1.2 percent of foreign trading gross receipts to determine the amount of qualifying foreign trade income with respect to a transaction, the taxpayer or any other related persons will be treated as having no qualifying foreign trade income with respect to any other transaction involving the same property. For example, assume that a manufacturer and a distributor of the same product are related persons. The manufacturer sells the product to the distributor at an arm's-length price of \$80 (generating \$30 of profit) and the distributor sells the product to an unrelated customer outside of the United States for \$100 (generating \$20 of profit). If the distributor chooses to calculate its qualifying foreign trade income on the basis of 1.2 percent of foreign trading gross receipts, then the manufacturer will be considered to have no qualifying foreign trade income and, thus, would have no excluded income. The distributor's qualifying foreign trade income would be 1.2 percent of \$100, and the manufacturer's qualifying foreign trade income would be zero. This limitation is intended to prevent a duplication of exclusions from gross income because the distributor's \$100 of gross receipts includes the \$80 of gross receipts of the manufacturer. Absent this limitation, \$80 of gross receipts would have been double counted for purposes of the exclusion. If both persons were permitted to use 1.2 percent of their foreign trading gross receipts in this example, then the related-person group would have an exclusion based on \$180 of foreign trading gross receipts notwithstanding that the related-person group really only generated \$100 of gross receipts from the transaction. However, if the distributor chooses to calculate its qualifying foreign trade income on the basis of 15 percent of foreign trade income (15 percent of \$20 of profit), then the manufacturer would also be eligible to calculate its qualifying foreign trade income in the same manner (15 percent of \$30 of profit). Thus, in the second case, each related person may exclude an amount of income based on their respective profits. The total foreign trade income of the related-person group is \$50. Accordingly, allowing each person to calculate the exclusion based on their respective foreign trade income does not result in duplication of exclusions.

Under the Senate amendment, a taxpayer may determine the amount of qualifying foreign trade income either on a transaction-by-transaction basis or on an aggregate basis for groups of transactions, so long as the groups are based on product lines or recognized industry or trade usage. Under the

grouping method, it is intended that taxpayers be given reasonable flexibility to identify product lines or groups on the basis of recognized industry or trade usage. In general, provided that the taxpayer's grouping is not unreasonable, it will not be rejected merely because the grouped products fall within more than one of the two-digit Standard Industrial Classification codes. The Secretary of the Treasury is granted authority to prescribe rules for grouping transactions in determining qualifying foreign trade income.

Qualifying foreign trade income must be reduced by illegal bribes, kickbacks and similar payments, and by a factor for operations in or related to a country associated in carrying out an international boycott, or participating or cooperating with an international boycott.

In addition, the Senate amendment directs the Secretary of the Treasury to prescribe rules for marginal costing in those cases in which a taxpayer is seeking to establish or maintain a market for qualifying foreign trade property.

Foreign trading gross receipts

Under the Senate amendment, "foreign trading gross receipts" are gross receipts derived from certain activities in connection with "qualifying foreign trade property" with respect to which certain "economic processes" take place outside of the United States. Specifically, the gross receipts must be (1) from the sale, exchange, or other disposition of qualifying foreign trade property; (2) from the lease or rental of qualifying foreign trade property for use by the lessee outside of the United States; (3) for services which are related and subsidiary to the sale, exchange, disposition, lease, or rental of qualifying foreign trade property (as described above); (4) for engineering or architectural services for construction projects located outside of the United States; or (5) for the performance of certain managerial services for unrelated persons. Gross receipts from the lease or rental of qualifying foreign trade property include gross receipts from the license of qualifying foreign trade property. Consistent with the policy adopted in the Taxpayer Relief Act of 1997, this includes the license of computer software for reproduction abroad.

Foreign trading gross receipts do not include gross receipts from a transaction if the qualifying foreign trade property or services are for ultimate use in the United States, or for use by the United States (or an instrumentality thereof) and such use is required by law or regulation. Foreign trading gross receipts also do not include gross receipts from a transaction that is accomplished by a subsidy granted by the government (or any instrumentality thereof) of the country or possession in which the property is manufactured.

A taxpayer may elect to treat gross receipts from a transaction as not foreign trading gross receipts. As a consequence of such an election, the taxpayer could utilize any related foreign tax credits in lieu of the exclusion as a means of avoiding double taxation. It is intended that this election be accomplished by the taxpayer's treatment of such items on its tax return for the taxable year. Provided that the taxpayer's taxable year is still open under the statute of limitations for making claims for refund under section 6511, a taxpayer can make redeterminations as to whether the gross receipts from a transaction constitute foreign trading gross receipts.

Foreign economic processes

Under the Senate amendment, gross receipts from a transaction are foreign trading gross receipts only if certain economic processes take place outside of the United States.

The foreign economic processes requirement is satisfied if the taxpayer (or any person acting under a contract with the taxpayer) participates outside of the United States in the solicitation (other than advertising), negotiation, or making of the contract relating to such transaction and incurs a specified amount of foreign direct costs attributable to the transaction. For this purpose, foreign direct costs include only those costs incurred in the following categories of activities: (1) advertising and sales promotion; (2) the processing of customer orders and the arranging for delivery; (3) transportation outside of the United States in connection with delivery to the customer; (4) the determination and transmittal of a final invoice or statement of account or the receipt of payment; and (5) the assumption of credit risk. An exception from the foreign economic processes requirement is provided for taxpayers with foreign trading gross receipts for the year of \$5 million or less.

The foreign economic processes requirement must be satisfied with respect to each transaction and, if so, any gross receipts from such transaction could be considered as foreign trading gross receipts. For example, all of the lease payments received with respect to a multi-year lease contract, which contract met the foreign economic processes requirement at the time it was entered into, would be considered as foreign trading gross receipts. On the other hand, a sale of property that was formerly a leased asset, which was not sold pursuant to the original lease agreement, generally would be considered a new transaction that must independently satisfy the foreign economic processes requirement.

A taxpayer's foreign economic processes requirement is treated as satisfied with respect to a sales transaction (solely for the purpose of determining whether gross receipts are foreign trading gross receipts) if any related person has satisfied the foreign economic processes requirement in connection with another sales transaction involving the same qualifying foreign trade property.

Qualifying foreign trade property

Under the Senate amendment, the threshold for determining if gross receipts will be treated as foreign trading gross receipts is whether the gross receipts are derived from a transaction involving "qualifying foreign trade property." Qualifying foreign trade property is property manufactured, produced, grown, or extracted ("manufactured") within or outside of the United States that is held primarily for sale, lease, or rental, in the ordinary course of a trade or business, for direct use, consumption, or disposition outside of the United States. In addition, not more than 50 percent of the fair market value of such property can be attributable to the sum of (1) the fair market value of articles manufactured outside of the United States plus (2) the direct costs of labor performed outside of the United States.

It is understood that under current industry practice, the purchaser of an aircraft contracts separately for the aircraft engine and the airframe, albeit contracting with the airframe manufacturer to attach the separately purchased engine. It is intended that an aircraft engine be qualifying foreign trade property (assuming that all other requirements are satisfied) if (1) it is specifically designed to be separated from the airframe to which it is attached without significant damage to either the engine or the airframe, (2) it is reasonably expected to be separated from the airframe in the ordinary course of business (other than by reason of temporary separation for servicing, maintenance, or repair) before the end of the useful life of ei-

ther the engine or the airframe, whichever is shorter, and (3) the terms under which the aircraft engine was sold were directly and separately negotiated between the manufacturer of the aircraft engine and the person to whom the aircraft will be ultimately delivered. By articulating this application of the foreign destination test in the case of certain separable aircraft engines, no inference is intended with respect to the application of any destination test under present law or with respect to any other rule of law outside the Senate amendment.

The Senate amendment excludes certain property from the definition of qualifying foreign trade property. The excluded property is (1) property leased or rented by the taxpayer for use by a related person, (2) certain intangibles, (3) oil and gas (or any primary product thereof), (4) unprocessed softwood timber, (5) certain products the transfer of which are prohibited or curtailed to effectuate the policy set forth in Public Law 96-72, and (6) property designated by Executive order as in short supply. In addition, it is intended that property that is leased or licensed to a related person who is the lessor, licensor, or seller of the same property in a sublease, sublicense, sale, or rental to an unrelated person for the ultimate and predominant use by the unrelated person outside of the United States is not excluded property by reason of such lease or license to a related person.

With respect to property that is manufactured outside of the United States, rules are provided to ensure consistent U.S. tax treatment with respect to manufacturers. The Senate amendment requires that property manufactured outside of the United States be manufactured by (1) a domestic corporation, (2) an individual who is a citizen or resident of the United States, (3) a foreign corporation that elects to be subject to U.S. taxation in the same manner as a U.S. corporation, or (4) a partnership or other pass-through entity all of the partners or owners of which are described in (1), (2), or (3) above.

Foreign trade income

Under the Senate amendment, "foreign trade income" is the taxable income of the taxpayer (determined without regard to the exclusion of qualifying foreign trade income) attributable to foreign trading gross receipts. Certain dividends-paid deductions of cooperatives are disregarded in determining foreign trade income for this purpose.

Foreign sale and leasing income

Under the Senate amendment, "foreign sale and leasing income" is the amount of the taxpayer's foreign trade income (with respect to a transaction) that is properly allocable to activities that constitute foreign economic processes (as described above). For example, a distribution company's profit from the sale of qualifying foreign trade property that is associated with sales activities, such as solicitation or negotiation of the sale, advertising, processing customer orders and arranging for delivery, transportation outside of the United States, and other enumerated activities, would constitute foreign sale and leasing income.

Foreign sale and leasing income also includes foreign trade income derived by the taxpayer in connection with the lease or rental of qualifying foreign trade property for use by the lessee outside of the United States. Income from the sale, exchange, or other disposition of qualifying foreign trade property that is or was subject to such a lease (i.e., the sale of the residual interest in the leased property) gives rise to foreign sale and leasing income. Except as provided in regulations, a special limitation applies to leased property that (1) is manufactured by the taxpayer or (2) is acquired by the tax-

payer from a related person for a price that was other than arm's length. In such cases, foreign sale and leasing income may not exceed the amount of foreign sale and leasing income that would have resulted if the taxpayer had acquired the leased property in a hypothetical arm's-length purchase and then engaged in the actual sale or lease of such property. For example, if a manufacturer leases qualifying foreign trade property that it manufactured, the foreign sale and leasing income derived from that lease may not exceed the amount of foreign sale and leasing income that the manufacturer would have earned with respect to that lease had it purchased the property for an arm's-length price on the day that the manufacturer entered into the lease. For purposes of calculating the limit on foreign sale and leasing income, the manufacturer's basis and, thus, depreciation would be based on this hypothetical arm's-length price. This limitation is intended to prevent foreign sale and leasing income from including profit associated with manufacturing activities.

For purposes of determining foreign sale and leasing income, only directly allocable expenses are taken into account in calculating the amount of foreign trade income. In addition, income properly allocable to certain intangibles is excluded for this purpose.

General example

The following is an example of the calculation of qualifying foreign trade income.

XYZ Corporation, a U.S. corporation, manufactures property that is sold to unrelated customers for use outside of the United States. XYZ Corporation satisfies the foreign economic processes requirement through conducting activities such as solicitation, negotiation, transportation, and other sales-related activities outside of the United States with respect to its transactions. During the year, qualifying foreign trade property was sold for gross proceeds totaling \$1,000. The cost of this qualifying foreign trade property was \$600. XYZ Corporation incurred \$275 of costs that are directly related to the sale and distribution of qualifying foreign trade property. XYZ Corporation paid \$40 of income tax to a foreign jurisdiction related to the sale and distribution of the qualifying foreign trade property. XYZ Corporation also generated gross income of \$7,600 (gross receipts of \$24,000 and cost of goods sold of \$16,400) and direct expenses of \$4,225 that relate to the manufacture and sale of products other than qualifying foreign trade property. XYZ Corporation also incurred \$500 of overhead expenses. XYZ Corporation's financial information for the year is summarized as follows:

	Total	Other property	OFTP
Gross receipts	\$25,000	\$24,000	\$1,000
Cost of goods sold	17,000	16,400	600
Gross income	8,000	7,600	400
Direct expenses	4,500	4,225	275
Overhead expenses	500		
Net income	3,000		

Illustrated below is the computation of the amount of qualifying foreign trade income that is excluded from XYZ Corporation's gross income and the amount of related expenses that are disallowed. In order to calculate qualifying foreign trade income, the amount of foreign trade income first must be determined. Foreign trade income is the taxable income (determined without regard to the exclusion of qualifying foreign trade income) attributable to foreign trading gross receipts. In this example, XYZ Corporation's foreign trading gross receipts equal \$1,000. This amount of gross receipts is reduced by

the related cost of goods sold, the related direct expenses, and a portion of the overhead expenses in order to arrive at the related taxable income. Thus, XYZ Corporation's foreign trade income equals \$100, calculated as follows:

Foreign trading gross receipts	\$1,000
Cost of goods sold	600
<hr/>	
Gross income	400
Direct expenses	275
Apportioned overhead expenses	25
<hr/>	
Foreign trade income	100

Foreign sale and leasing income is defined as an amount of foreign trade income (calculated taking into account only directly-related expenses) that is properly allocable to certain specified foreign activities. Assume for purposes of this example that of the \$125 of foreign trade income (\$400 of gross income from the sale of qualifying foreign trade property less only the direct expenses of \$275), \$35 is properly allocable to such foreign activities (e.g., solicitation, negotiation, advertising, foreign transportation, and other enumerated sales-like activities) and, therefore, is considered to be foreign sale and leasing income.

Qualifying foreign trade income is the amount of gross income that, if excluded, will result in a reduction of taxable income equal to the greatest of (1) 30 percent of foreign sale and leasing income, (2) 1.2 percent of foreign trading gross receipts, or (3) 15 percent of foreign trade income. Thus, in order to calculate the amount that is excluded from gross income, taxable income must be determined and then "grossed up" for allocable expenses in order to arrive at the appropriate gross income figure. First, for each method of calculating qualifying foreign trade income, the reduction in taxable income is determined. Then, the \$275 of direct and \$25 of overhead expenses, totaling \$300, attributable to foreign trading gross receipts is apportioned to the reduction in taxable income based on the proportion of the reduction in taxable income to foreign trade income. This apportionment is done for each method of calculating qualifying foreign trade income. The sum of the taxable income reduction and the apportioned expenses equals the respective qualifying foreign trade income (i.e., the amount of gross income excluded) under each method, as follows:

	1.2% FTGR ¹	15% FTI ²	30% FS&LI ³
Reduction of taxable income:			
1.2% of FTGR (1.2% *\$1,000)	12.00		
15% of FTI (15% *\$100)		15.00	
30% of FS&LI (30% *\$35)			10.50
Gross-up for disallowed expenses:			
\$300 *(\$12/\$100)	36.00		
\$300 *(\$15/\$100)		45.00	
\$275 *(\$10.50/\$100) ⁴			28.88
<hr/>			
Qualifying foreign trade income	48.00	60.00	39.38

¹"FTGR" refers to foreign trading gross receipts.
²"FTI" refers to foreign trade income.
³"FS&LI" refers to foreign sale and leasing income.
⁴Because foreign sale and leasing income only takes into account direct expenses, it is appropriate to take into account only such expenses for purposes of this calculation.

In the example, the \$60 of qualifying foreign trade income is excluded from XYZ Corporation's gross income (determined based on 15 percent of foreign trade income). In connection with excluding \$60 of gross income, certain expenses that are allocable to this income are not deductible for U.S. Federal income tax purposes. Thus, \$45 (\$300 of related expenses multiplied by 15 percent, i.e., \$60 of qualifying foreign trade income divided by \$400 of gross income from the sale of qualifying foreign trade property) of expenses are disallowed.

	Other property	QFTP	Ex- cluded/ dis- allowed	Total
Gross receipts	\$24,000	\$1,000		
Cost of goods sold	16,400	600		
<hr/>				
Gross income	7,600	400	(60.00)	7,940.00
Direct expenses	4,225	275	(41.25)	4,458.75
Overhead expenses	475	25	(3.75)	496.25
<hr/>				
Taxable income				2,985.00

XYZ Corporation paid \$40 of income tax to a foreign jurisdiction related to the sale and distribution of the qualifying foreign trade property. A portion of this \$40 of foreign income tax is treated as paid with respect to the qualifying foreign trade income and, therefore, is not creditable for U.S. foreign tax credit purposes. In this case, \$6 of such taxes paid (\$40 of foreign taxes multiplied by 15 percent, i.e., \$60 of qualifying foreign trade income divided by \$400 of gross income from the sale of qualifying foreign trade property) is treated as paid with respect to the qualifying foreign trade income and, thus, is not creditable.

The results in this example are the same regardless of whether XYZ Corporation manufactures the property within the United States or outside of the United States through a foreign branch. If XYZ Corporation were an S corporation or limited liability company, the results also would be the same, and the exclusion would pass through to the S corporation owners or limited liability company owners as the case may be.

Other rules

Foreign-source income limitation

The Senate amendment provides a limitation with respect to the sourcing of taxable income applicable to certain sale transactions giving rise to foreign trading gross receipts. This limitation only applies with respect to sale transactions involving property that is manufactured within the United States. The special source limitation does not apply when qualifying foreign trade income is determined using 30 percent of the foreign sale and leasing income from the transaction.

This foreign-source income limitation is determined in one of two ways depending on whether the qualifying foreign trade income is calculated based on 1.2 percent of foreign trading gross receipts or on 15 percent of foreign trade income. If the qualifying foreign trade income is calculated based on 1.2 percent of foreign trading gross receipts, the related amount of foreign-source income may not exceed the amount of foreign trade income that (without taking into account this special foreign-source income limitation) would be treated as foreign-source income if such foreign trade income were reduced by 4 percent of the related foreign trading gross receipts.

For example, assume that foreign trading gross receipts are \$2,000 and foreign trade income is \$100. Assume also that the taxpayer chooses to determine qualifying foreign trade income based on 1.2 percent of foreign trading gross receipts. Taxable income after taking into account the exclusion of the qualifying foreign trade income and the disallowance of related deductions is \$76. Assume that the taxpayer manufactured its qualifying foreign trade property in the United States and that title to such property passed outside of the United States. Absent a special sourcing rule, under section 863(b) (and the regulations thereunder) the \$76 of taxable income would be sourced as \$38 U.S. source and \$38 foreign source. Under the special sourcing rule, the amount of foreign-source income may not exceed the amount of the foreign trade income that otherwise would be treated as foreign source if the for-

eign trade income were reduced by 4 percent of the related foreign trading gross receipts. Reducing foreign trade income by 4 percent of the foreign trading gross receipts (4 percent of \$2,000, or \$80) would result in \$20 (\$100 foreign trade income less \$80). Applying section 863(b) to the \$20 of reduced foreign trade income would result in \$10 of foreign-source income and \$10 of U.S.-source income. Accordingly, the limitation equals \$10. Thus, although under the general sourcing rule \$38 of the \$76 taxable income would be treated as foreign source, the special sourcing rule limits its foreign-source income in this example of \$10 (with the remaining \$66 being treated as U.S.-source income).

If the qualifying foreign trade income is calculated based on 15 percent of foreign trade income, the amount of related foreign-source income may not exceed 50 percent of the foreign trade income that (without taking into account this special foreign-source income limitation) would be treated as foreign-source income.

For example, assume that foreign trade income is \$100 and the taxpayer chooses to determine its qualifying foreign trade income based on 15 percent of foreign trade income. Taxable income after taking into account the exclusion of the qualifying foreign trade income and the disallowance of related deductions is \$85. Assume that the taxpayer manufactured its qualifying foreign trade property in the United States and that title to such property passed outside of the United States. Absent a special sourcing rule, under section 863(b) the \$85 of taxable income would be sourced as \$42.50 U.S. source and \$42.50 foreign source. Under the special sourcing rule, the amount of foreign-source income may not exceed 50 percent of the foreign trade income that otherwise would be treated as foreign source. Applying section 863(b) to the \$100 of foreign trade income would result in \$50 of foreign-source income and \$50 of U.S.-source income. Accordingly, the limitation equals \$25, which is 50 percent of the \$50 foreign-source income. Thus, although under the general sourcing rule \$42.50 of the \$85 taxable income would be treated as foreign source, the special sourcing rule limits its foreign-source income in this example to \$25 (with the remaining \$60 being treated as U.S.-source income).

Treatment of withholding taxes

The Senate amendment generally provides that no foreign tax credit is allowed for foreign taxes paid or accrued with respect to qualifying foreign trade income (i.e., excluded extraterritorial income). In determining whether foreign taxes are paid or accrued with respect to qualifying foreign trade income, foreign withholding taxes generally are treated as not paid or accrued with respect to qualifying foreign trade income. Accordingly, the Senate amendment's denial of foreign tax credits would not apply to such taxes. For this purpose, the term "withholding tax" refers to any foreign tax that is imposed on a basis other than residence and that is otherwise a creditable foreign tax under sections 901 or 903. It is intended that such taxes would be similar in nature to the gross-basis taxes described in sections 871 and 881.

If, however, qualifying foreign trade income is determined based on 30 percent of foreign sale and leasing income, the special rule for withholding taxes is not applicable. Thus, in such cases foreign withholding taxes may be treated as paid or accrued with respect to qualifying foreign trade income and, accordingly, are not creditable under the Senate amendment.

Election to be treated as a U.S. corporation

The Senate amendment provides that certain foreign corporations may elect, on an

original return, to be treated as domestic corporations. The election applies to the taxable year when made and all subsequent taxable years unless revoked by the taxpayer or terminated for failure to qualify for the election. Such election is available for a foreign corporation (1) that manufactures property in the ordinary course of such corporation's trade or business, or (2) if substantially all of the gross receipts of such corporation are foreign trading gross receipts. For this purpose, "substantially all" is based on the relevant facts and circumstances.

In order to be eligible to make this election, the foreign corporation must waive all benefits granted to such corporation by the United States pursuant to a treaty. Absent such a waiver, it would be unclear, for example, whether the permanent establishment article of a relevant tax treaty would override the electing corporation's treatment as a domestic corporation under this provision. A foreign corporation that elects to be treated as a domestic corporation is not permitted to make an S corporation election. The Secretary is granted authority to prescribe rules to ensure that the electing foreign corporation pays its U.S. income tax liabilities and to designate one or more classes of corporations that may not make such an election. If such an election is made, for purposes of section 367 the foreign corporation is treated as transferring (as of the first day of the first taxable year to which the election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

If a corporation fails to meet the applicable requirements, described above, for making the election to be treated as a domestic corporation for any taxable year beginning after the year of the election, the election will terminate. In addition, a taxpayer, at its option and at any time, may revoke the election to be treated as a domestic corporation. In the case of either a termination or a revocation, the electing foreign corporation will not be considered as a domestic corporation effective beginning on the first day of the taxable year following the year of such termination or revocation. For purposes of section 367, if the election to be treated as a domestic corporation is terminated or revoked, such corporation is treated as a domestic corporation transferring (as of the first day of the first taxable year to which the election ceases to apply) all of its property to a foreign corporation in connection with an exchange to which section 354 applies. Moreover, once a termination occurs or a revocation is made, the former electing corporation may not again elect to be taxed as a domestic corporation under the provisions of the Senate amendment for a period of five tax years beginning with the first taxable year that begins after the termination or revocation.

For example, assume a U.S. corporation owns 100 percent of a foreign corporation. The foreign corporation manufactures outside of the United States and sells what would be qualifying foreign trade property were it manufactured by a person subject to U.S. taxation. Such foreign corporation could make the election under this provision to be treated as a domestic corporation. As a result, its earnings no longer would be deferred from U.S. taxation. However, by electing to be subject to U.S. taxation, a portion of its income would be qualifying foreign trade income. The requirement that the foreign corporation be treated as a domestic corporation (and, therefore, subject to U.S. taxation) is intended to provide parity between U.S. corporations that manufacture abroad in branch form and U.S. corporations that manufacture abroad through foreign subsidiaries. The election, however, is not

limited to U.S.-owned foreign corporations. A foreign-owned foreign corporation that wishes to qualify for the treatment provided under the Senate amendment could avail itself of such election (unless otherwise precluded from doing so by Treasury regulations).

Shared partnerships

The Senate amendment provides rules relating to allocations of qualifying foreign trade income by certain shared partnerships. To the extent that such a partnership (1) maintains a separate account for transactions involving foreign trading gross receipts with each partner, (2) makes distributions to each partner based on the amounts in the separate account, and (3) meets such other requirements as the Treasury Secretary may prescribe by regulations, such partnership then would allocate to each partner items of income, gain, loss, and deduction (including qualifying foreign trade income) from such transactions on the basis of the separate accounts. It is intended that with respect to, and only with respect to, such allocations and distributions (i.e., allocations and distributions related to transactions between the partner and the shared partnership generating foreign trading gross receipts), these rules would apply in lieu of the otherwise applicable partnership allocation rules such as those in section 704(b). For this purpose, a partnership is a foreign or domestic entity that is considered to be a partnership for U.S. Federal income tax purposes.

Under the Senate amendment, any partner's interest in the shared partnership is not taken into account in determining whether such partner is a "related person" with respect to any other partner for purposes of the Senate amendment's provisions. Also, the election to exclude certain gross receipts from foreign trading gross receipts must be made separately by each partner with respect to any transaction for which the shared partnership maintains a separate account.

Certain assets not taken into account for purposes of interest expense allocation

The Senate amendment also provides that qualifying foreign trade property that is held for lease or rental, in the ordinary course of a trade or business, for use by the lessee outside of the United States is not taken into account for interest allocation purposes.

Distributions of qualifying foreign trade income by cooperatives

Agricultural and horticultural producers often market their products through cooperatives, which are member-owned corporations formed under Subchapter T of the Code. At the cooperative level, the Senate amendment provides the same treatment of foreign trading gross receipts derived from products marketed through cooperatives as it provides for foreign trading gross receipts of other taxpayers. That is, the qualifying foreign trade income attributable to those foreign trading gross receipts is excluded from the gross income of the cooperative. Absent a special rule, however, patronage dividends or per-unit retain allocations attributable to qualifying foreign trade income paid to members of cooperatives would be taxable in the hands of those members. It is believed that this would disadvantage agricultural and horticultural producers who choose to market their products through cooperatives relative to those and individuals who market their products directly or through pass-through entities such as partnerships, limited liability companies, or S corporations. Accordingly, the Senate amendment provides that the amount of any patronage dividends or per-unit retain allo-

cations paid to a member of an agricultural or horticultural cooperative (to which Part I of Subchapter T applies), which is allocable to qualifying foreign trade income of the cooperative, is treated as qualifying foreign trade income of the member (and, thus, excludable from such member's gross income). In order to qualify, such amount must be designated by the organization as allocable to qualifying foreign trade income in a written notice mailed to its patrons not later than the payment period described in section 1382(d). The cooperative cannot reduce its income (e.g., cannot claim a "dividends-paid deduction") under section 1382 for such amounts.

Gap period before administrative guidance is issued

It is recognized that there may be a gap in time between the enactment of the Senate amendment and the issuance of detailed administrative guidance. It is intended that during this gap period before administrative guidance is issued, taxpayers and the Internal Revenue Service may apply the principles of present-law regulations and other administrative guidance under sections 921 through 927 to analogous concepts under the Senate amendment. Some examples of the application of the principles of present-law regulations to the Senate amendment are described below. These limited examples are intended to be merely illustrative and are not intended to imply any limitation regarding the application of the principles of other analogous rules or concepts under present law.

Marginal costing and grouping

Under the Senate amendment, the Secretary of the Treasury is provided authority to prescribe rules for using marginal costing and for grouping transactions in determining qualifying foreign trade income. It is intended that similar principles under present-law regulations apply for these purposes.

Excluded property

The Senate amendment provides that qualifying foreign trade property does not include property leased or rented by the taxpayer for use by a related person. It is intended that similar principles under present-law regulations apply for this purpose. Thus, excluded property does not apply, for example, to property leased by the taxpayer to a related person if the property is held for sublease, or is subleased, by the related person to an unrelated person and the property is ultimately used by such unrelated person predominantly outside of the United States. In addition, consistent with the policy adopted in the Taxpayer Relief Act of 1997, computer software that is licensed for reproduction outside of the United States is not excluded property. Accordingly, the license of computer software to a related person for reproduction outside of the United States for sale, sublicense, lease, or rental to an unrelated person for use outside of the United States is not treated as excluded property by reason of the license to the related person.

Foreign trading gross receipts

Under the Senate amendment, foreign trading gross receipts are gross receipts from among other things, the sale, exchange, or other disposition of qualifying foreign trade property, and from the lease of qualifying foreign trade property for use by the lessee outside of the United States. It is intended that the principles of present-law regulations that define foreign trading gross receipts apply for this purpose. For example, a sale includes an exchange or other disposition and a lease includes a rental or sublease and a license or a sublicense.

Foreign use requirement

Under the Senate amendment, property constitutes qualifying foreign trade property

if, among other things, the property is held primarily for lease, sale, or rental, in the ordinary course of business, for direct use, consumption, or disposition outside of the United States. It is intended that the principles of the present-law regulations apply for purposes of this foreign use requirement. For example, for purposes of determining whether property is sold for use outside of the United States, property that is sold to an unrelated person as a component to be incorporated into a second product which is produced, manufactured, or assembled outside of the United States will not be considered to be used in the United States (even if the second product ultimately is used in the United States), provided that the fair market value of such seller's components at the time of delivery to the purchaser constitutes less than 20 percent of the fair market value of the second product into which the components are incorporated (determined at the time of completion of the production, manufacture, or assembly of the second product).

In addition, for purposes of the foreign use requirement, property is considered to be used by a purchaser or lessee outside of the United States during a taxable year if it is used predominantly outside of the United States. For this purpose, property is considered to be used predominantly outside of the United States for any period if, during that period, the property is located outside of the United States more than 50 percent of the time. An aircraft or other property used for transportation purposes (e.g., railroad rolling stock, a vessel, a motor vehicle, or a container) is considered to be used outside of the United States for any period if, for the period, either the property is located outside of the United States more than 50 percent of the time or more than 50 percent of the miles traveled in the use of the property are traveled outside of the United States. An orbiting satellite is considered to be located outside of the United States for these purposes.

Foreign economic processes

Under the Senate amendment, gross receipts from a transaction are foreign trading gross receipts eligible for exclusion from the tax base only if certain economic processes take place outside of the United States. The foreign economic processes requirement compares foreign direct costs to total direct costs. It is intended that the principles of the present-law regulations apply during the gap period for purposes of the foreign economic processes requirement including the measurement of direct costs. It is recognized that the measurement of foreign direct costs under the present-law regulations often depend on activities conducted by the FSC, which is a separate entity. It is recognized that some of these concepts will have to be modified when new guidance is promulgated as a result of the Senate amendment's elimination of the requirement for a separate entity.

Effective date *In general*

The Senate amendment is effective for transactions entered into after September 30, 2000. In addition, no corporation may elect to be a FSC after September 30, 2000.

The Senate amendment also provides a rule requiring the termination of a dormant FSC when the FSC has been inactive for a specified period of time. Under this rule, a FSC that generates no foreign trade income for any five consecutive years beginning after December 31, 2001, will cease to be treated as a FSC.

Transition rules

Winding down existing FSCs and binding contract relief

The Senate amendment provides a transition period for existing FSCs and for binding

contractual agreements. The new rules do not apply to transactions in the ordinary course of business involving a FSC before January 1, 2002. Furthermore, the new rules do not apply to transactions in the ordinary course of business after December 31, 2001, if such transactions are pursuant to a binding contract between a FSC (or a person related to the FSC on September 30, 2000) and any other person (that is not a related person) and such contract is in effect on September 30, 2000, and all times thereafter. For this purpose, binding contracts include purchase options, renewal options, and replacement options that are enforceable against a lessor or seller (provided that the options are a part of a contract that is binding and in effect on September 30, 2000).

Old earnings and profits of corporations electing to be treated as domestic corporations

A transition rule also provided for certain corporations electing to be treated as a domestic corporation under the Senate amendment. In the case of corporation to which this transition rule applies, the corporation's earnings and profits accumulated in taxable years ending before October 1, 2000 are not included in the gross income of the shareholder by reason of the deemed asset transfer for section 367 purposes that the Senate amendment provides. Thus, although the electing corporation may be treated as transferring all of its assets to a domestic corporation in a reorganization described in section 368(a)(1)(F), the earnings and profits amount that would otherwise be treated as a deemed dividend to the U.S. shareholder under the regulations under section 367(b) will not include the earnings and profits accumulated in taxable years ending before October 1, 2000. This treatment is similar to the treatment of earnings and profits of a foreign insurance company that makes the election to be treated as a domestic corporation under section 953(d), which election was a model for the election to be treated as a domestic corporation under the Senate amendment. Under section 953(d), earnings and profits accumulated in taxable years beginning before January 1, 1988 were not included in the earnings and profits amount that would be a deemed dividend for section 367(b) purposes.

Like the pre-1988 earnings and profits of a domesticating foreign insurance company under section 953(d), the earnings and profits to which this transition rule applies would continue to be treated as earnings and profits of a foreign corporation even after the corporation elects to be treated as a domestic corporation. Thus, a distribution out of earnings and profits of an electing corporation accumulated in taxable years ending before October 1, 2000 would be treated as a distribution made by a foreign corporation. Rules similar to those applicable to corporations making the section 953(d) election that prevent the repatriation of pre-election period earnings and profits without current U.S. taxation apply for this purpose. Thus, for example, the earnings and profits accumulated in taxable years beginning before October 1, 2000 would continue to be taken into account for section 1248 purposes.

The earnings and profits to which the transition rule applies are the earnings and profits accumulated by the electing corporation in taxable years ending before October 1, 2000. The transition rule will not apply to earnings and profits accumulated before that date that are succeeded to after that date by the electing corporation in a transaction to which section 381 applies unless, like the electing corporation, the distributor or transferor (from whom the electing corporation acquired the earnings and profits) could have itself made the election under the Sen-

ate amendment to be treated as a domestic corporation and would have been eligible for the transition relief.

The transition rule for old earnings and profits applies to two classes of taxpayers. The first class is FSCs in existence on September 30, 2000 that make an election to be treated as a domestic corporation because they satisfy the requirement that substantially all of their gross receipts are foreign trading gross receipts. To be eligible for the transition relief, the election must be made not later than for the FSC's first taxable year beginning after December 31, 2001.

The second class of corporations to which this transition relief applies is certain controlled foreign corporations (as defined in section 957). Notwithstanding other requirements for making the election to be treated as a domestic corporation provided under the Senate amendment's general provisions, such controlled foreign corporations are eligible under the transition rule to make the election to be treated as a domestic corporation and will not have the resulting deemed asset transfer cause a deemed inclusion of earnings and profits for earnings and profits accumulated in taxable years ending before October 1, 2000. To be eligible for the transition relief, such a controlled foreign corporation must be in existence on September 30, 2000. The controlled foreign corporation must be wholly owned, directly or indirectly, by a domestic corporation. The controlled foreign corporation must never have made an election to be treated as a FSC and must make the election to be treated as a domestic corporation not later than for its first taxable year beginning after December 31, 2001. In addition, the controlled foreign corporation must satisfy certain tests with respect to its income and activities. For administrative convenience, these tests are limited to the three taxable years preceding the first taxable year for which the election to be treated as a domestic corporation applies. First, during that three-year period, all of the controlled foreign corporation's gross income must be subpart F income. Thus, the income was subject to full inclusion to the U.S. shareholder and, accordingly, subject to current U.S. taxation. Second, during that three-year period, the controlled foreign corporation must have, in the ordinary course of its trade or business, entered into transactions in which it regularly sold or paid commissions to a related FSC (which also was in existence on September 30, 2000). If an electing corporation in this second class ceases to be (directly or indirectly) wholly owned by the domestic corporation that owns it on September 30, 2000, the election to be treated as a domestic corporation is terminated.

Limitation on use of the gross receipts method

Similar to the limitation on use of the gross receipts method under the Senate amendment's operative provisions, the Senate amendment provides a rule that limits the use of the gross receipts method for transactions after the effective date of the Senate amendment if that same property generated foreign trade income to a FSC using the gross receipts method. Under the rule, if any person used the gross receipts method under the FSC regime, neither that person nor any related person will have qualifying foreign trade income with respect to any other transaction involving the same item of property.

Coordination of new regime with prior law

Notwithstanding the transition period, FSCs (or related persons) may elect to have the rules of the Senate amendment apply in lieu of the rules applicable to FSCs. Thus, for transactions to which the transition rules apply (i.e., transactions after September 30, 2000 that occur (1) before January

1, 2002 or (2) after December 31, 2001 pursuant to a binding contract which is in effect on September 30, 2000), taxpayers may choose to apply either the FSC rules or the amendments made by this Senate amendment, but not both. In addition, a taxpayer would not be able to avail itself of the rules of the Senate amendment in addition to the rules applicable to domestic international sales corporations because the Senate amendment provides that the exclusion of extraterritorial income will not apply if a taxpayer is a member of any controlled group of which a domestic international sales corporation is a member.

Mr. Speaker, I urge all Members to support this vital, time-sensitive legislation.

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

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

In the efforts of the new Congress to be gentler, although I am adamantly opposed to this bill, I would like to give the two best shots they have to the gentleman from Texas (Mr. ARCHER), the distinguished chairman of the Committee on Ways and Means, and the gentleman from Michigan (Mr. LEVIN), the distinguished ranking member of the Subcommittee on Trade. I want to give him 4 minutes, and we will proceed to destroy their arguments in subsequent time.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I deeply appreciate the gentleman yielding me this time, under any terms.

Mr. Speaker, I rise in support of this bill. It passed the House earlier this session, 315 to 109, and we are considering it again today because the Senate, as the gentleman from Texas (Mr. ARCHER) mentioned, made a modification with the agreement of the House and the administration.

Let me take a few minutes to review the history as to why this bill is on the floor today. Our country has what is known as a worldwide taxation system. In general, U.S. residents are taxed on income, regardless of where it is earned. Rules such as the foreign tax credit ensure against double taxation. By contrast, most European countries have a form of territorial taxation. Under those systems, income is taxed only if it is earned within the territory of the taxing jurisdiction. This system tends to favor exports over comparable domestic transactions.

To put our exports on a level playing field with Europe and others, we enacted in 1971 the Domestic International Sales Corporation Law, DISC. The European community successfully challenged that law in the GATT, and we successfully challenged the territorial tax regimes of Belgium, France, and the Netherlands. These disputes ultimately were resolved in 1981 by an understanding adopted by the GATT Council.

Based on the 1981 understanding, we replaced the DISC with FSC, the Foreign Sales Corporation statute. The

goal of that statute was to ensure that when U.S. producers of goods, both industrial and agricultural, export, our tax system does not put them at a disadvantage.

This system worked well for almost 20 years; but in 1988, the European Union decided to walk away from it and challenge the FSC. In its decision adopted by the WTO earlier this year, the FSC statute was held to violate WTO's subsidy rules and the U.S. was directed to withdraw the subsidy by October 1.

Whatever one may think of the reasoning of the WTO dispute panel, our commitment to a rules-based trading system requires that we bring our law into compliance with its decision, and this bill does that precisely. It does so in a way that makes our tax regime a bit more like a territorial tax regime.

What this bill does is to define a category of foreign source income that is excluded from gross income and, therefore, not subject to U.S. tax. It makes clear that to come within this category, income need not arise from an export transaction. Qualifying transactions will include certain sales of property produced outside the United States. Thus, this bill definitively eliminates the export contingency that the EU argued was a WTO inconsistency.

At the same time, and I emphasize this, as is clear from the bill itself in the committee report, this bill does not provide an incentive for U.S. producers to move their operations overseas. It carefully defines the property that can be involved in transactions subject to the new tax regime. No more than 50 percent of the fair market value of such property can consist of, a, non-U.S. components, plus, b, non-U.S. direct labor. This provision has been carefully reviewed by those of us on the Committee on Ways and Means, as well as the Department of Treasury, and, I might add, the minority leader.

Enactment of this bill is critical to U.S. businesses, workers, and farmers. The cloud of the WTO decision affects everyone from airplane manufacturers and manufacturers of other industrial products to software developers, to wheat growers, and so on. If we fail to enact this bill, there is a serious risk that the EU will go back to the WTO. It would cause great harm to U.S. businesses, to workers, and to farmers.

As I said in September, there are other issues, tobacco issues, pharmaceutical issues. They cannot be considered, though, within this bill. If we need to amend, to modify U.S. laws, we should do so later on. But we have a constraint. The deadline was October 1, now it is November 17; and if we fail to act by that date, as I said earlier in September, we are going to hurt American businesses and the workers who work for them, and we are simply going to help European competitors. As I said a month ago, if we want to help European producers, vote against this bill. But if we want to help American

workers, businesses and manufacturing goods, let us vote for this bill.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. CRANE), a respected member of the Committee on Ways and Means, who has worked so very hard on this legislation and the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I rise in strong support of this legislation, which fulfills the United States' obligation to bring the foreign sales corporation tax regime into compliance with WTO trade agreements. H.R. 4986 moves the U.S. closer to a territorial tax system, more like the one governing the international activities of so many European businesses.

Many issues divide the Congress in these days before and after the close national election. But with respect to the difficult choices facing us on FSC, both parties worked in concert with the administration to address a looming threat to innocent United States exporters. Make no mistake: this bill averts a trade war that is poised to hit unsuspecting U.S. exporters with millions of dollars of retaliatory tariffs.

Another issue we need to be very clear about, the FSC regime and its replacement reduced the anti-growth biases of our international tax system that would otherwise hamstring our companies and our workers. Some Members, even proponents of this legislation, sometimes have called the FSC replacement a subsidy. We need to be more careful with our language.

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This is not a subsidy. It is a partial, repeat, partial, reduction in an excessive tax burden our companies, and by extension, our workers, face when competing in the world economy.

By way of analogy, our current tax law is a felony. The fiscal replacement reduces the charge to a misdemeanor, but the net result still violates the economic law of neutrality that should govern all of our tax policies.

The European Union is challenging us, not as Republicans or Democrats, not as Congress or the administration, but as a country. By completing the difficult work necessary to send this bill to the President, we have put the United States in the best possible position to defend our interests in the WTO.

H.R. 4986 represents an achievement of bipartisan cooperation in the best interests of American businesses and workers. I urge a yes vote.

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

Mr. Speaker, there is an old rule of tax law which started with actually then Secretary of the Treasury Baker when we reformed the Tax Code under President Reagan. It was, if it quacks like a subsidy and walks like a subsidy and looks like a subsidy, it is a subsidy.

The distinguished chairman of the Subcommittee on Trade would discuss

the overburden of taxation. When the pharmaceutical companies charge our people, our seniors, our young people, two to four times more for the same drug that they charge people in Europe, and yet they have the lowest tax rate of any industry group in this country, why should we give them hundreds of millions of dollars of subsidy, gift, reduction? Members may call it what they want, but we are rewarding the pharmaceutical industry for charging less in Europe and more in this country.

Tell me what it is, Mr. Speaker. I call it disgraceful, I call it obscene, \$750 million a year to General Electric and Boeing to sell weapons, which they do not even sell, the State Department and the Defense Department arrange the sale of weapons. Yet, we give them a reduction of \$750 million a year? That is a subsidy, pure and simple.

Now, software was mentioned. Those poor folks in Seattle. Software? Do Members know how much Microsoft paid in taxes last year? Zero, Mr. Speaker, a goose egg. This big or this big, zero is still zero. Yet, they get a subsidy which gets them down to zero for all the software they sell overseas. Is that a gift? And this poor overtaxed Bill Gates is walking around, so we subsidize his sales overseas.

Mr. Speaker, we have been doing this for generations. For 25 years, we have been giving \$5 billion a year away in subsidies to corporations who would do the same thing whether or not they got this subsidy. And they do not set their prices based on their taxes. As any distinguished economist, like my friend, the gentleman from Illinois (Mr. CRANE), the distinguished chair of the Subcommittee on Trade, knows, corporations do not price their products based on taxes, they price their products based on competitive and manufacturing costs, all the other things, as he so well knows.

So all we are doing is giving a break, a tax break, a subsidy, to the richest corporations in this country, rewarding those corporations who gyp our senior citizens by overcharging in this country, by rewarding them.

And my distinguished friend, the gentleman from Texas, will tell us about tobacco, subsidizing the sale of tobacco to hook little kids in other parts of the world while we are trying to spend money here at home. Just think, if we had some of this \$5 billion a year to spend to train our children not to smoke, how much healthier and safer they would be. Think if we had some of this \$5 billion a year to spend on education to hire teachers, which the gentleman could not find the money to do on the Republican side. Think if we had this \$5 billion a year to provide a drug benefit to the senior citizens.

No, we are going to continue this charade and give this money away in unconscionable subsidies to the corporations who least need it for doing what they would do anyway. It is the silliest kind of gift to the people who

need it least, when we have people in this country who need help. We are turning our backs on the people in this country and helping the richest corporations in this country.

End this charade now and vote against this bill.

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

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

Mr. CRANE. Mr. Speaker, first of all, with regard to tobacco subsidies, that would keep people from getting to the polls, I guess, if we eliminated subsidies.

But let me ask a second question. That is, do businesses pay taxes?

Mr. STARK. Most of these do not, no. Mr. CRANE. No, do businesses pay taxes?

Mr. STARK. Some businesses do. The ones getting the subsidy for the most part do not. They have so many loopholes and subsidies, as in this, that they end up paying no taxes.

Mr. CRANE. Will the gentleman go back to Econ 101? Businesses do not pay taxes and never have. That is a cost, like plant and equipment and labor are costs.

Mr. STARK. Mr. Speaker, this is my time and I reclaim it. That is as silly as supply side economics. The gentleman ought to know better.

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

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

Mr. Speaker, I rise simply to say that the gentleman from California says that it is a corporate subsidy if we do not double tax all of the earnings overseas. We are one of the very few developed countries in the world that double taxes earnings overseas. So if we eliminate partially, only partially, the double taxation of those earnings to be only partially competitive with our foreign competitors, he calls it a subsidy. I do not believe the American people would agree with that.

Mr. Speaker, I include for the RECORD a letter from Secretary Summers on behalf of the administration strongly supporting this legislation.

The document referred to is as follows:

DEPARTMENT OF THE TREASURY,
Washington, DC, November 2, 2000.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Enactment of legislation (H.R. 4986) repealing and replacing the Foreign Sales Corporation ("FSC") regime has been and remains a top priority for the President. As you know, H.R. 4986 is the product of a unique bipartisan effort involving the Administration, Chairmen Archer and Roth, Ranking Members Rangel and Moynihan, and their staffs.

It was carefully drafted to address issues raised by the WTO regarding the FSC regime. The Administration strongly supports passage of this legislation that has such important consequences for jobs, the national economy, and international relations with some of our most important trading partners.

Passage of H.R. 4986, is absolutely essential to avoiding the potential imposition by the European Union of significant sanctions on American industries and to satisfying the United States' obligations in the WTO. Failure to pass this legislation immediately will compromise the United States' ability to avoid a confrontation with the European Union. Moreover, it would jeopardize an important procedural agreement reached with the European Union to this end. The procedural agreement delays the possibility of retaliation by ensuring that the WTO will review the new replacement legislation before any decision may be made authorizing retaliation. The benefits of the agreement, however, are contingent upon the immediate enactment of the FSC replacement legislation.

Therefore, I urge you in the strongest possible terms to allow the House to act on H.R. 4986 as soon as possible.

Sincerely,
LAWRENCE H. SUMMERS,
Secretary.

Mr. Speaker, I include for the RECORD a statement of administration policy from OMB strongly supporting this legislation.

The document referred to is as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT
AND BUDGET,

Washington, DC, September 12, 2000.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies)

H.R. 4986—FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000 (ARCHER (R) TEXAS)

The Administration strongly supports H.R. 4986, which would repeal provisions of the Internal Revenue Code relating to foreign sales corporations and provide an exclusion from U.S. tax for certain income earned overseas.

H.R. 4986 addresses the issues with respect to foreign sales corporations (FSCs) that were raised by the World Trade Organization (WTO) Appellate Body decision in February 2000. Because the legislation provides an exclusion for certain income earned overseas (referred to as "qualifying foreign trade income"), there is no forgone revenue that would otherwise be due and thus there is no subsidy. Further, by treating all qualifying foreign sales alike, regardless of whether the goods were manufactured in the United States or abroad, the proposed legislation is not export-contingent.

H.R. 4986 has been developed through an extraordinary bipartisan, bicameral process. The Administration believes that enactment of this law, prior to October 1, 2000, is necessary to avoid an immediate confrontation with the European Union (EU), to ensure that the United States is in compliance with the WTO Appellate Body decision, and to avoid possible sanctions that would otherwise be imposed by the EU. This legislation would assure that no U.S. companies are disadvantaged. Passage of this legislation is the only way to avoid potential EU sanctions against U.S. exports.

PAY-AS-YOU-GO SCORING

H.R. 4986 would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirement of the Omnibus Budget Reconciliation Act of 1990. The Joint Committee on Taxation estimates that the bill would produce revenue losses of \$1.5 billion in fiscal years 2001 through 2005. The Administration's scoring of the bill is under development. The Administration will work with Congress to avoid an unintended sequester.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. RANGEL), the ranking Democrat on the Committee on Ways and Means, who has worked very closely with us from beginning to end on a bipartisan basis to get to where we are today, and who has contributed a great deal to this legislation.

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

Mr. RANGEL. Mr. Speaker, let me thank the chairman of the Committee on Ways and Means, the gentleman from Texas (Mr. ARCHER), my fellow Democrats, and join my colleagues on the floor in asking support for this piece of legislation, which is supported by the President and which our official Secretary Stuart Eizenstat, assistant Secretary Jon Talisman, have worked on, as well as the Senate, which has made some changes here.

It is interesting to note the concerns that some of my colleagues have about the policies of some of our domestic corporations, especially those dealing with pharmaceutical products, as well as tobacco.

It would seem to me within this body and the other body that we should be able to determine from a domestic point of view exactly to what extent we expect to control the conduct of these businesses in the United States.

But much like foreign policy, with all of the problems I have with my government, somehow when I leave the United States, those problems disappear when I am dealing with foreign bodies. I have concerns about the production and sale of tobacco, but not to the extent that I am prepared to accept a criticism of a foreign body as to how we conduct international business. This is especially so since I have more criticism about how foreign countries conduct their business, and I am not allowed to participate in terms of what I think is right and what I think is wrong and what I think is totally unfair.

For that reason, I have to support those people who diplomatically and legally have to work with the World Trade Organization, knowing that if we do not support our diplomatic efforts in this area, then it allows foreigners to arbitrarily select how they are going to penalize American businesses, American exports, American workers.

I just do not like that one bit. I do not like the idea that they can arbitrarily select those exports that we have that have nothing to do with pharmaceuticals, nothing to do with tobacco, and decide they have to punish us because they do not like the way we treat our exports.

We do not mind them looking over as to whether or not we have been fair in creating an even playing field for all of our businesses. We do not mind if they say they want to come to the table and renegotiate how we do this thing so we can say we do not like the way they treat their companies that are doing exports.

But it does appear to me that when we are dealing with the European Union, when we are dealing with the World Trade Organization, we should be able to stand by those people who negotiate on behalf of the United States of America, United States businesses, and those Americans.

We should be able to distinguish between our concern about how we treat American businesses here, how we penalize them for conduct that we think is unhealthy to the environment or to our people, distinguish that as it appears to be when foreigners are attempting to critique us, and indeed, provide sanctions against American businesses, the American community, American workers, and indeed, I would say, America in general.

So while I do not challenge the good-faith interests people have in challenging this legislation, I ask my colleagues to support it. For those that have reservations, I ask them to continue to study and find ways that we can reach objectives they want.

But on the international playing field, that flag should be flying for us. I support the flag, I support those people that negotiated with the WTO. I hope in the final analysis we get better than a fair advantage as it relates to American businesses, because as far as I am concerned, the more jobs for America, the better country we have.

Mr. STARK. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from Texas (Mr. DOGGETT).

□ 1030

Mr. Speaker, this bill has a whopping cost to Americans of \$42 billion in this decade. To be bipartisan about it, in the words of Senator JOHN MCCAIN, "this legislation is an example of the costly corporate welfare that cripples our ability to respond to truly urgent social needs." Indeed it is.

To make matters worse, despite all the proclamations about how urgent this bill is and how we will avoid a trade war and save all of these jobs, to make matters worse, this bill does not work. And even its supporters concede in private that it will not work and that we will be back here as soon as the World Trade Organization considers and rejects this bill, doing this all over again, because of the well justified criticism that has been levied against this very obvious straight subsidy.

With good reason, the Europeans have already rejected this ill-conceived proposal. Not only does it not work in the world forum, it does not work, according to even Republican sources, like the Republican Congressional Budget Office. It announced in March of this year that "export subsidies" such as this bill "reduce economic welfare and typically even reduce the welfare of the country granting the subsidy."

The assistant director of the General Accounting Office in August of this year said "most of the benefits are re-

ceived by a small number of large corporations." He noted: "Policymakers have available a number of tax and other government incentives that meet WTO standards, and that could be expanded to replace the prohibited direct tax subsidy provided by the FSC tax regime."

And to those who say they want more free trade, this bill does not provide free trade. It provides distorted trade and chooses winners and losers. This legislation asks local stores that sell groceries and clothing to customers at a mall or along Main Street across this country to pay higher taxes than the multinationals that sell cigarettes and machine guns abroad.

Mr. Speaker, \$4 of every \$5 in this bill go to companies that have assets exceeding \$1 billion. It offers no significant benefit to smaller companies in this country.

Indeed, I think the Congress ought to heed the words of commentator Paul Magnusson in "Business Week" on September 4 of this year who wrote that "the larger problem with subsidies is that they invite countersubsidies and so accomplish little besides transferring money from consumers and taxpayers to politically powerful producers"; and that is exactly what is happening today. I agree with that commentary that "it's time to call a halt to such waste by both sides; getting rid of subsidies for exports would be a good place to start. The Clinton administration should drop its plans to expand FSC and get back to the negotiating table and start proposing some real solutions such as eliminating all export subsidies."

Indeed, the administration should have done just that. Now who is driving the corporate welfare Cadillacs that are lining up outside the Capitol to get more welfare under this proposal? Well, driver number one is Mr. Phillip Morris and the tobacco lobby. They get \$100 million a year under this proposal to export death and disease to the rest of the world, to use the slick tactics that they developed here in America addicting our children to nicotine in order to encourage a global pandemic addicting the children of the world.

And to my colleagues from the tobacco-producing States, the industry does not even have to use American tobacco. All they have to do is slip a little Marlboro label on the package and they can use exclusively foreign tobacco, and still be tax subsidized by American taxpayers to the tune of over \$100 million a year to promote death and disease.

The Clinton administration agreed to oppose this wrong. The administration were true to the last minute; and then they abandoned, in the face of the lobbying power of the tobacco industry, their stated willingness to end this promotion of death and disease.

Who is the second big corporate welfare Cadillac driver? There has been the suggestion that we could not have any amendments to this bill. Well,

there was an amendment that was done behind closed doors, and the effect was to double, absolutely double with an increase by \$300 million every year the amount of money that those who make weapons in this country will get by selling them abroad.

We already dominate the world scene in terms of the manufacture of weapons being sent to every arms race in every corner of the world. But under this bill, American tax payers will have to subsidize and offer more corporate welfare to those weapon manufacturers to keep up the good business they have that results in death and destruction all over this world.

Instead of being a leader and trying to reduce the amount of those arms races around the world, we are subsidizing it to the tune of \$300 million more, even though last year, the Treasury said it was not a good idea, and the Defense Department, in 1994, indicated it was not necessary. Even though Republican groups in this Congress said it was unwise, they could not, in an election year, resist the dominance and power of the arms manufacturers.

And then another driver of this corporate welfare Cadillac is the pharmaceutical industry. It is an industry that today gets a reward for making prescriptions here in America and selling them for less abroad. They will get a tax subsidy, a bit of corporate welfare, for doing that at the same time they gouge consumers at home. This bill is wrong, that is why it was done behind closed doors, that is why they are fearful of amendments and discussion and it ought to be rejected.

Mr. DOGGETT. Mr. Speaker, this bill has a long title, but it is quite simply a welfare bill. It has a huge price tag that will cost Americans billions of dollars. It has been prepared entirely behind closed doors by those who will receive the welfare benefits. With the blessing of both the Clinton administration and the Republican leadership here in Congress, a very interesting process was followed: If one was going to get something out of this bill, they were invited to the behind-closed-doors negotiations. If they were left out, they were excluded from the negotiations to prepare this legislation.

Once this product of all of the clandestine wheeling and dealing sessions was presented to this Congress, every effort was made, both here in the House and across the Capitol in the Senate, to ensure that no questions were asked and no amendments were offered. There was as little talk possible about all of this behind-the-scenes wheeling and dealing to get as much welfare for themselves, by some who wrote the bill, as they possibly could: "Do not look at the details of the largesse, just give it to us as fast as you can."

This bill represents everything that is wrong with the special interest domination of the legislative process in America today. It provides ample justification for the cynicism that more

and more Americans have that their government is not serving them, but serving only those who can afford to have a lobbyist and a political action committee located in Washington.

The SPEAKER pro tempore (Mr. SIMPSON). Without objection, the gentleman from Illinois (Mr. CRANE) will control the time for the majority.

There was no objection.

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

Mr. Speaker, I have recognition of my opponents' opposition here to our bill. We had Smoot-Hawley in our party, and they shared many of the same convictions we heard here tonight. But I am happy that the gentleman from Missouri (Mr. GEPHARDT) and the gentleman from New York (Mr. RANGEL), our ranking minority member, are supportive of this bipartisan legislation.

Mr. Speaker, I yield 2½ minutes to the gentleman from Pennsylvania (Mr. ENGLISH), our distinguished colleague.

Mr. ENGLISH. Mr. Speaker, I am delighted to be here to urge strong bipartisan support for this very important legislation. Legislation that may be the most important action we take at the close of this Congress, and perhaps for years to come.

This is critical legislation to protect the jobs of working families who have members who work in some of our best-paying export oriented jobs in America. I am surprised to hear the strange rhetoric on the floor of this House that is essentially rhetoric directed against their jobs.

We have heard the opponents of this legislation adopt the same rhetoric of our European trade competitors in criticizing our tax system. The thing to understand and what FSC is intended to address, this legislation is not a welfare bill, corporate or otherwise. It is not a subsidy. It is an adjustment of our tax system to establish a level playing field, and that is what our European trade competitors have not wanted.

FSC was originally created and made necessary, only because the U.S. maintains an archaic worldwide tax system which taxes foreign-source income and because the U.S. taxes export income. By refusing to reform FSC today, this Congress would be inviting massive retaliation against U.S. export trade leaving our exporters and their employees high and dry. Failing to reform FSC today would make an already tough global market next to impossible for U.S. employers to compete in.

If we do not act today, we would impose a huge cost on the economy of this country, particularly on some of the industries in manufacturing that have the best paying jobs. If we do not act today, we would put our workers at a competitive disadvantage and effectively balance our budget on their backs.

Mr. Speaker, if we do not act today, we will explode our already large trade deficit and put our economy in a down-

ward spiral because, if we do not act today, we will set up the dynamics for a trade war between Europe and the United States. We cannot afford that. They cannot afford that. We should not move down this slippery slope.

Pass this legislation. It is the one responsible thing we can do today.

Mr. STARK. Mr. Speaker, I am happy to yield 30 seconds to the gentleman from Guam (Mr. UNDERWOOD).

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

Mr. UNDERWOOD. Mr. Speaker, I rise to express my concerns regarding H.R. 4986, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000. I urge congressional leaders and the Clinton administration to help the U.S. territories who will be adversely impacted by this legislation, particularly the U.S. Virgin Islands and Guam when the House reconvenes in December.

In Guam, there are over 200 FSC licenses generating around \$170,000 to the government of Guam. However, license fees are only some of the direct benefits from FSC. Other direct benefits include compensation for the professional community. But be that as it may, I am appealing to the Clinton administration, particularly the Treasury Department, to offset the economic impact of today's legislation by allowing territories to promote economic self-sufficiency, including establishing empowerment zones for the territories and tax equity treatment for Guam.

Mr. Speaker, I rise to express my concerns regarding H.R. 4986, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000. I urge congressional leaders and the Clinton administration to help the U.S. territories who will be adversely impacted by this legislation, particularly the U.S. Virgin Islands and Guam, when the House reconvenes in December.

Since the WTO decision last fall on Foreign Sales Corporations (FSCs), I know that the administration worked closely with House Ways and Means Committee Chairman ARCHER and Representative RANGEL, the ranking member, to ensure that the United States passes legislation to meet the October 1, 2000, deadline set by the WTO to comply with its ruling. Although the deadline has passed, today's passage of H.R. 4986 is necessary to fulfill a commitment by U.S. officials to address the concerns raised by the European Union.

As many of you know, the WTO panel issued a ruling last fall that subsidies for Foreign Sales Corporations under U.S. tax laws violated the WTO Subsidies Agreement. U.S. negotiators have since worked in good faith on a proposal to retain many of the tax benefits of the FSC structure, while establishing a new structure which would be responsive to the European Union's challenge.

However, I simply want to express my concern over the impact that H.R. 4986 would have on the U.S. territories. Under the current FSC system, U.S. territories have been able to benefit through tax exemptions for U.S. exporting industries. With the repeal of the FSC system, we will no longer be able to offer this incentive although I understand that current contracts will be honored.

In Guam, there are around 211 FSC licensees, generating around \$170,000 to the Government of Guam. However, license fees are only some of the direct benefits from FSCs. Other direct benefits include compensation for Guam attorneys and other professionals, bank deposits, and funds generated through the hotel and restaurant industries that host FSC corporate meetings. Indirect benefits would be the cumulative effect that FSCs and other tax incentives have on attracting U.S. businesses to Guam.

Be it as it may, the writing is on the wall for FSCs as we now know it. Therefore, I am appealing to the Clinton administration, particularly the Treasury Department, to offset the economic impact of today's legislation with the means necessary to allow the U.S. territories to promote economic self-sufficiency during any negotiations with the Congress on any final omnibus budget or tax package.

Apart from H.R. 3247, which would provide empowerment zones for the U.S. territories, I have worked closely with my colleagues to enact legislation that I authorized which would level the playing field for foreign investors in Guam through the passage of the Guam Foreign Direct Investment Equity Act.

My legislation would provide Guam with the same tax rates as the fifty states under international tax treaties. Since the U.S. cannot unilaterally amend treaties to include Guam in its definition of United States, my bill amends Guam's Organic Act, which has an entire tax section that "mirrors" the U.S. Internal Revenue Code.

As background, under the U.S. Code, there is a 30 percent withholding tax rate for foreign investors in the United States. Since Guam's tax law "mirrors" the rate established under the U.S. Code, the standard rate for foreign investors in Guam is 30 percent.

The Guam Foreign Direct Investment Equity Act provides the Government of Guam with the authority to tax foreign investors at the same rates as states under U.S. tax treaties with foreign countries since Guam cannot change the withholding tax rate on its own under current law. Under U.S. Tax treaties, it is a common feature for countries to negotiate lower withholding rates on investment returns. Unfortunately, while there are different definitions for the term "United States" under these treaties, Guam is not included. Such an omission has adversely impacted Guam since 75 percent of Guam's commercial development is funded by foreign investors. As an example, with Japan, the U.S. rate for foreign investors is 10 percent. That means while Japanese investors are taxed at a 10 percent withholding tax rate on their investments in the fifty states, those same investors are taxed at a 30 percent withholding rate on Guam.

While the long term solution is for U.S. negotiators to include Guam in the definition of the term "United States" for all future tax treaties, the immediate solution is to amend the Organic Act of Guam and authorize the Government of Guam to tax foreign investors at the same rates as the fifty states. Other territories under U.S. jurisdiction have already remedied this problem through Delinkage, their unique covenant agreements with the federal government, or through federal statute. Guam, therefore, is the only state or territory in the United States which is unable to take advantage of this tax benefit.

As the House considers H.R. 4986, as amended by the Senate, I implore my col-

leagues and the Clinton Administration to support the Guam Foreign Direct Investment Equity Act to offset the adverse impact of H.R. 4986 on Guam. Please include equitable tax treatment for foreign investors in Guam during any final omnibus budget or tax package.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), our distinguished colleague.

Mrs. CHRISTENSEN. Mr. Speaker, I want to thank the distinguished gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade, for yielding me this time to speak on an issue that is very important to all of the territories, and my constituents included.

Mr. Speaker, while H.R. 4986 is clearly necessary for our country to avoid having sanctions imposed on us by the European Union, for me and the people of the Virgin Islands, who I represent, its enactment into law will mean the loss of nearly \$11 million to our already depressed local treasury.

Through no fault of our own and despite the efforts of my colleagues on the Committee on Ways and Means and the administration to mitigate the adverse effects on us, the Virgin Islands stands to lose hundreds of direct and indirect jobs in the FSC industry, in addition to the millions in FSC franchise fees that the local government collects.

This action by the European Union to challenge our FSC program in the WTO could not have come at a worse time for the Virgin Islands as our local economy continues to suffer from the effects of 10 years of devastation from several killer hurricanes.

What I want my colleagues to understand that while this bill is necessary because of what it means for the country, it is a blow for the people of the Virgin Islands and the other territories. It is my intention to continue to work with my colleagues in the Congress and the administration to assist the Virgin Islands and the other territories in replacing the loss of this program and the loss of revenues that this bill will mean for us.

Mr. Speaker, I thank the gentleman from Illinois once again for yielding me this time.

Mr. STARK. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. DEFAZIO).

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

Mr. DEFAZIO. Mr. Speaker, I rise in strong opposition to the legislation.

We again find ourselves debating replacing a rather arcane section of the tax code that allows corporations to avoid a portion of their tax bill by establishing largely paper entities in a filing cabinet in a tax haven like Barbados with the equally arcane tax provisions of H.R. 4986, the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.

And, once again, the legislation has been brought to the floor under suspension of the rules, which cuts off any ability to improve what is a truly dismal bill.

Creating this new, expanded loophole to assist corporations in escaping their fair share of the tax burden in the U.S. makes a mockery of pleas by my colleagues to simplify the tax code and improve fairness.

For nearly two decades, beginning with the Revenue Act of 1971 (P.L. 92-178), the U.S. provided tax incentives for exports. However, our trading partners complained that these incentives violated our commitments under the General Agreement on Tariffs and Trade (GATT). While not conceding the violation, in 1984, Congress scrapped the Domestic International Sales Corporation (DISC) provisions and created the Foreign Sales Corporation (FSC) provisions. The differences are highly technical and probably only understood by international tax bureaucrats.

Under the FSC provision, corporations can exempt between 15 and 30 percent of their export income from taxation by routing a portion of their exports through a FSC. Our trading partners, specifically the European Union (EU), were not satisfied with the somewhat cosmetic changes made to the U.S. tax code.

Going back on a verbal gentleman's agreement not to challenge our respective tax codes under global trading rules, the EU filed a complaint with the World Trade Organization (WTO), successor to GATT, essentially arguing the same thing that was argued about DISCs. Namely that export subsidies were illegal under global trading rules by conferring an unfair advantage on recipient companies.

A secretive WTO tribunal ruled against the U.S. Dutifully, the U.S. appealed the decision. Earlier this year, the WTO appeals panel upheld the earlier decision and ordered the U.S. to repeal the FSC provision or risk substantial retaliatory measures.

Specifically, the WTO appeals panel wrote, "By entering into the WTO Agreement, each Member of the WTO has imposed on itself an obligation to comply with all terms of that Agreement. This is a ruling that the FSC measure does not comply with all those terms. The FSC measure creates a 'subsidy' because it creates a 'benefit' by means of a 'financial contribution', in that government revenue is foregone that is 'otherwise due.' This 'subsidy' is a 'prohibited export subsidy' under the SCM Agreement [Agreement on Subsidies and Countervailing Measures] because it is contingent on export performance. It is also an export subsidy that is inconsistent with the Agreement on Agriculture. Therefore, the FSC Measure is no consistent with the WTO obligations of the United States."

In other words, it is unfair and illegal under global trade rules for the U.S. tax code to provide welfare for corporations by allowing them to escape taxes that would otherwise be due.

At this point, one would expect that my colleagues who, on most occasions eloquently defend the need for "rules based trade" and "free markets", to adhere to the WTO directive and repeal FSC. Because I assumed my colleagues would want to be intellectually consistent, I introduced legislation shortly after the WTO ruling to repeal FSC.

After all, precedent proved the U.S. was more than willing to bend to the will of the WTO. When the WTO ruled against a provision of the 1990 Clean Air Act, the Environmental Protection Agency gutted its clean air regulations in order to allow dirtier gasoline from Venezuela to be sold in the U.S.

Similarly, when Mexico threatened a WTO enforcement action on a 1991 GATT case it

had won that eviscerated the Dolphin Protection Act, the U.S. went along to get along. In fact, the Clinton Administration sent a letter to Mexican President Ernesto Zedillo declaring that weakening the standard by which tuna must be caught in "dolphin-safe" nets "is a top priority for my administration and me personally."

The WTO also ruled against the Endangered Species Act provisions that required U.S. and foreign shrimpers to equip their nets with inexpensive turtle excluder devices if they wanted to sell shrimp in the U.S. market. The goal was to protect endangered sea turtles. The Clinton Administration agreed to comply with the ruling.

Given this record of acquiescing to the WTO, one could be forgiven for assuming the Clinton Administration and Congress would behave in a similar manner when losing a case on tax breaks for corporations.

Of course, sea turtles and dolphins don't make massive campaign contributions, or any campaign contributions for that matter. But, the large corporations who would be impacted by the WTO decisions against FSCs do.

Apparently not bothered by the hypocrisy, immediately after the ruling by the WTO appeals panel, the Clinton Administration, a few Members of Congress, and the business community openly declared the need to maintain the subsidy in some form and began meeting in secret to work out the details on how to circumvent the WTO ruling and maintain these valuable, multi-billion dollar tax incentives.

Now, it is well-known that I am not a big fan of the WTO. It is an unaccountable, secretive, undemocratic bureaucracy that looks out solely for the interests of multinational corporations and investors at the expense of human rights, labor standards, national sovereignty, and the environment.

But, by pointing out that export subsidies like FSCs are corporate welfare, however, the WTO has done U.S. taxpayers a favor. Unfortunately, this legislation before us today only does wealthy corporations a favor.

I have several problems with H.R. 4986 besides the intellectual inconsistency. I will touch on each of these now.

First, and perhaps most importantly, there is little or no economic rationale for export subsidies like FSCs or the provisions of H.R. 4986. In its April 1999 Maintaining Budgetary Discipline report, the Congressional Budget Office (CBO) noted "Export subsidies, such as FSCs, reduce global economic welfare and may even reduce the welfare of the country granting the subsidy, even though domestic export-producing industries may benefit."

Similarly, in August 1996, CBO wrote, "Export subsidies do not increase the overall level of domestic investment and domestic employment . . . In the long run, export subsidies increase imports as much as exports. As a result, investment and employment in import-competing industries in the United States would decline about as much as they increased in the export industries."

Need further evidence? The Congressional Research Service (CRS) has written "Economic analysis suggests that FSC does increase exports, but likely triggers exchange rate adjustments that also result in an increase in U.S. imports; the long run impact on the trade balance is probably nil. Economic theory also suggests that FSC probably reduces aggregate U.S. economic welfare.

Of course, protests will be heard from supporters of H.R. 4986 that it gets rid of the export requirement. In testimony before the Ways and Means Committee, Deputy Secretary Eizenstat said the Chairman's mark is "not export-contingent." Of course, that claim is absurd. If a company sells products solely in the U.S., they don't qualify for the tax subsidy. That is, by definition, an export subsidy. Therefore, the criticisms of export subsidies previously mentioned would apply to this new legislation as well.

President Nixon originally proposed export subsidies, which became the DISC and then FSC, because he was alarmed at the size of the U.S. trade deficit, which was \$1.4 billion in 1971, a number that seems almost quaint by today's standards. As Paul Magnusson noted in the September 4, 2000, Business Week, FSC "produced some hefty tax savings for big U.S. exporters, but it never did actually do much to narrow the trade deficit, which hit a record \$339 billion last year." And which, I should add, has continued to set new records virtually every month this year.

I can't understand why it makes sense to subsidize U.S. exporters to the tune of \$5 billion or more when the economic impact is "probably nil" or worse.

The economic rationale further deteriorates when one realizes, as the previous quotes suggest, that export subsidies discriminate against mom-and-pop stores who don't have the resources to export and against U.S. industries that must compete with imports. This means that export subsidies distort markets by pre-ordaining winners and losers. The winners? Large exporters and foreign consumers who get to enjoy lower priced U.S. products subsidized by U.S. taxpayers. The losers? Small businesses, U.S. taxpayers, and import-competing industries.

I find it interesting while Treasury has spent a great deal of time figuring out how to combat corporate tax shelters that have no economic rationale, as discussed in a July 1999 report, that they would push this corporate welfare, which also has no economic rationale.

So, who specifically benefits? The journal Tax Notes conducted a revealing study of FSCs in its August 14, 2000, edition. The article profiled the 250 companies that reported \$1.2 billion in FSC tax savings in 1998. The top 20 percent of the companies in the sample claimed 87 percent of the benefits. The two largest FSC beneficiaries were the General Electric Company and Boeing, which saw their tax bills reduced by \$750 million and \$686 million, respectively from 1991-1998.

What are some of the other top FSC corporate welfare queens? Motorola, Caterpillar, Allied-Signal, Cisco Systems, Monsanto, Archer Daniels Midland, Oracle, Raytheon, RJR Nabisco, International Paper, and ConAgra. The list reads like a who's who of extraordinarily profitable multinational corporations. Hardly companies that should need to feed from the taxpayer trough.

Furthermore, American subsidiaries of European firms take advantage of U.S. taxpayers through export subsidies. British Petroleum, Unilever, BASF, Daimler Benz, Hoescht, and Rhone-Poulenc are all FSC beneficiaries. The fact that foreign companies can also claim export benefits pokes a large hole in the argument that these tax benefits are needed to ensure the competitiveness of U.S. businesses.

Similarly, isn't it a bit odd that economists and U.S. policymakers like to lecture Euro-

pean nations about their high tax burdens, but now, suddenly their tax burden is too low and, therefore, U.S. companies need subsidies in order to compete?

Let's be clear, this legislation is not about the competitiveness of large, wealthy, multinational corporations based in the United States. It is about wealthy campaign contributors wanting to keep and expand their \$5 billion-plus tax subsidies and elected officials willing to do their bidding.

Not only does H.R. 4986 allow these companies to continue receiving billions in tax breaks, but it actually expands them. This legislation will cost U.S. taxpayers another \$300 million a year or more.

It is also unfortunate that this legislation subsidizes a number of industries—such as defense contractors, tobacco companies, and pharmaceutical firms—that have no business receiving any more taxpayer hand-outs.

Take the defense industry, for example. Under the current FSC regime, defense contractors can only claim 50 percent of the tax benefit available to other industries. The legislation before us today allows the defense industry to claim the full benefit available to others.

Leaving aside the fact that U.S. taxpayers are already overly generous to defense contractors, which no doubt they are, expanding this corporate welfare will have no discernable impact on overseas sales. The Treasury Department noted in August 1999, "We have seen no evidence that granting full FSC benefits would significantly affect the level of defense exports."

In 1997, the CBO made a similar point, "U.S. defense industries have significant advantages over their foreign competitors and thus should not need additional subsidies to attract sales."

Even the Pentagon has acknowledged this fact by concluding in 1994, "In a large number of cases, the U.S. is clearly the preferred provider, and there is little meaningful competition with suppliers from other countries. An increase in the level of support the U.S. government currently supplies is unlikely to shift the U.S. export market share outside a range of 53 to 59 percent of worldwide arms trade."

As Ways and Means Committee Member, Representative DOGGETT, noted in his dissenting views on H.R. 4986, "In 1999, without the bonanza provided by this bill, U.S. defense contractors sold almost \$11.8 billion in weapons overseas—more than a third of the world's total and more than all European countries combined."

The U.S. should stop the proliferation of weapons and war, not expand it as this bill intends.

The pharmaceutical industry is another industry that does not need or deserve additional subsidies from U.S. taxpayers. The industry already receives substantial research and development tax credits as well as the benefits flowing from discoveries by government scientists. As Representative STARK noted in his dissenting views, drug companies lowered their effective tax rate by nearly 40 percent relative to other industries from 1990 to 1996 and were named the most profitable industry in 1999 by Fortune Magazine.

The industry sells prescription drugs at far cheaper prices abroad than here in the U.S. For example, seniors in the U.S. pay twice as much for prescriptions as those in Canada or

Mexico. It is an affront to U.S. taxpayers to force them to further subsidize an industry that is already gouging them at the pharmacy as this bill would do.

In direct contradiction of various federal policies to combat tobacco related disease and death in the U.S., this legislation would force U.S. taxpayers to subsidize the spread of big tobacco's coffin nails to foreign countries. This violates the American taxpayers' sense of decency and respect. Their money should not be used to push a product onto foreign countries that kills one-third of the people who use it as intended.

By placing H.R. 4986 on the suspension calendar, debate is prematurely cut off and amendments to reduce support for drug companies, the defense industry or tobacco companies can not be considered. But, I guess that is just par for the course for a process that has taken place in relative secrecy between a few Members of Congress, the Administration, and the industries that stand to benefit from this legislation.

You may not hear this in the debate much, but it is important to point out that the EU has already put the U.S. on notice that H.R. 4986 does not satisfy its demands. According to the EU, H.R. 4986 still provides an export subsidy, maintains a requirement that a portion of a product contain U.S.-made components, and does not repeal FSCs by the October 1st deadline. Therefore, it is likely the EU will ask the WTO to rule on the legality of the U.S. reforms. Most independent analysts agree with the EU critique of H.R. 4986.

So, it is reasonable to assume the WTO will again rule against the U.S. and allow the EU to impose retaliatory sanctions against U.S. products. According to some press accounts, the EU would be able to impose 100 percent tariffs on around \$4 billion worth of U.S. goods. These would be the largest sanctions ever imposed in a trade dispute. In other words, this inadequate reform of export subsidies will open up the U.S. to retaliatory action by the EU, which will harm exports as much or more than any perceived benefit that would be provided by H.R. 4986. Of course, the exporters that will be hurt by retaliatory sanctions probably won't be the same businesses that will enjoy the tax windfall provided by this legislation.

Mr. Speaker, ADM is not suffering. Cisco Systems is not suffering. Raytheon is not suffering. Microsoft is not struggling mightily to keep its head above water. But, the American people are. Schools are crumbling, 45 million Americans have no health insurance, individuals are working longer hours for less money with the predictable stress on families, million of seniors do not have access to affordable prescription drugs, and poverty remains stubbornly high, particularly among children.

Rather than debating how to preserve billions in tax subsidies for some of our largest corporations, we should be figuring out how to address some of these issues. How many times over are we going to spend projected, and I stress projected, surpluses. If we want to pay down the national debt, provide prescription drugs, shore up Social Security and Medicare, and increase funding for education, Congress cannot keep showering wealthy corporations with unjustifiable tax subsidies.

I will end with a quote from a newspaper I'm not normally inclined to agree with editorially, the Washington Times. In an editorial on Sep-

tember 5, 2000, the Washington Times wrote, "The Ways and Means Committee boasts that support for its revised FSC bill was bipartisan and near unanimous. It remains a bipartisan and near unanimous blunder."

I urge my colleagues to vote against H.R. 4986.

Mr. STARK. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. TIERNEY).

Mr. TIERNEY. Mr. Speaker, I rise today in opposition to this.

Mr. Speaker, basically, I want to point out in response to some of the comments made by our colleagues on the other side, this attempt to replace current legislation for the Foreign Sales Corporation tax provision really in some instances doubles the benefit that existing companies are now getting, in particular those of the arms manufacturers and exporters.

At the very least, we would hope we would have an opportunity to go through committee and deal with this on a matter where we could have some amendments and if not eliminate this Foreign Sales Corporation tax provision, at least put amendments in there that would bring it back to what is now, as there is no basis in fact or any argument for why we are doubling in some instances the benefit the corporations would get.

In fact, passage of their particular replacement legislation is going to result in a rejection by the WTO. Everybody knows that in advance. We are going to be in a position where the United States companies are going to be penalized, and it is not going to be the companies necessarily that would be the ones benefitting from this proposed replacement legislation. There is going to be other small businesses, people that depend on financing their business operations and paying their help and their workers, who are going to be penalized when the WTO allows retribution for this.

We are going to be exposed to penalties that we ought not to be exposed to. This situation is not even a close call. Mr. Speaker, no one questions whether this is even good tax policy. The General Accounting Office, the Congressional Budget Office, the Congressional Research Service have all argued the foreign sales corporations have a negligible effect on trade.

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In fact, the Congressional Research Service argues that one of the greatest beneficiaries of this tax preference is foreign consumers who will pay a lower price for products subsidized at our taxpayers' expense. As there exists no evidence that the foreign sales corporations actually improve United States trade or create jobs, this hardly seems to be a judicious use of some \$5 billion.

Given that this bill was written almost completely behind closed doors, one would hope that it would at least be given a full public debate. Instead, proponents cynically assume that the public will not understand the matter

of tax policy; indeed, they count on the public not understanding it, and they permit a measly 40 minutes of debate time.

Instead of actually debating the issue and letting the chips fall where they may, Mr. Speaker, they rush to submit something, anything to the WTO as soon as possible, even something they will most certainly reject, and have expedited the legislative process to a point of incoherence. We should vote against this legislation.

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

Mr. Speaker, let me just commend our colleagues on the other side of the aisle who have joined in a collegial and bipartisan way in support of advancing a piece of legislation that is of profound significance and importance to the welfare of our economy and the advancement of our continuing role as the biggest export country on the face of this Earth.

We have an opportunity here to continue to move down that positive path. We have always had that good bipartisan support for these kinds of initiatives in the post-World War II era.

I thank Members on both sides, and I urge my colleagues to get behind this bill and vote aye.

Mr. PAUL. Mr. Speaker, today we are faced with a decision to do the right thing for the wrong reasons or the wrong thing for the wrong reasons. We have heard proponents of this FSC bill argue for tax breaks for U.S. exporters, which, of course, should be done. Those proponents, however, argue that this must be done to move the United States into compliance with a decision by the WTO tribunal. Alternatively, opponents of the bill, argue that allowing firms domiciled in the United States to keep their own earnings results in some form of subsidy to the "evil" corporations. If we were to evaluate this legislation based upon the floor debated, we would be left with the choice of abandoning U.S. sovereignty in the name of WTO compliance or denying private entities freedom from excess taxation.

Setting aside the aforementioned false choice of globalism or oppression by taxation, there are three reasons to consider voting against this bill. First, it perpetuates an international trade war. Second, this bill is brought to the floor as a consequence of a WTO ruling against the United States. Number three, this bill gives more authority to the President to issue Executive Orders.

Although this legislation deals with taxes and technically actually lowers taxes, the reason the bill has been brought up has little to do with taxes per se. To the best of my knowledge there has been no American citizen making any request that this legislation be brought to the floor. It was requested by the President to keep us in good standing with the WTO.

We are now witnessing trade war protectionism being administered by the World (Government) Trade Organization—the WTO. For two years now we have been involved in an ongoing trade war with Europe and this is just one more step in that fight. With this legislation the U.S. Congress capitulates to the demands of the WTO. The actual reason for this

legislation is to answer back to the retaliation of the Europeans for having had a ruling against them in favor of the United States on meat and banana products. The WTO obviously spends more time managing trade wars than it does promoting free trade. This type of legislation demonstrates clearly the WTO is in charge of our trade policy.

The Wall Street Journal reported on 9/5/00, "After a breakdown of talks last week, a multi-billion-dollar trade war is now about certain to erupt between the European Union and the U.S. over export tax breaks for U.S. companies, and the first shot will likely be fired just weeks before the U.S. election."

Already, the European Trade Commissioner, Pascal Lamy, has rejected what we're attempting to do here today. What is expected is that the Europeans will quickly file a new suit with the WTO as soon as this legislation is passed. They will seek to retaliate against United States companies and they have already started to draw up a list of those products on which they plan to place punitive tariffs.

The Europeans are expected to file suit against the United States in the WTO within 30 days of this legislation going into effect.

This legislation will perpetuate the trade war and certainly support the policies that have created the chaos of the international trade negotiations as was witnessed in Seattle, Washington.

The trade war started two years ago when the United States obtained a favorable WTO ruling and complained that the Europeans refused to import American beef and bananas from American owned companies.

The WTO then, in its administration of the trade war, permitted the United States to put on punitive tariffs on over \$300 million worth of products coming into the United States from Europe. This only generated more European anger who then objected by filing against the United States claiming the Foreign Sales Corporation tax benefit of four billion dollars to our corporations was "a subsidy."

On this issue the WTO ruled against the United States both initially and on appeal. We had been given till November 1st to accommodate our laws to the demands of the WTO.

H.R. 4986 will only anger the European Union and accelerate the trade war. Most likely within two months, the WTO will give permission for the Europeans to place punitive tariffs on hundreds of millions of dollars of U.S. exports. These trade problems will only worsen if the world slips into a recession when protectionist sentiments are strongest. Also, since currency fluctuations by their very nature stimulate trade wars, this problem will continue with the very significant weakness of the EURO.

The United States is now rotating the goods that are to receive the 100 to 200 percent tariff in order to spread the pain throughout the various corporations in Europe in an effort to get them to put pressure on their governments to capitulate to allow American beef and bananas to enter their markets. So far the products that we have placed high tariffs on have not caused Europeans to cave in. The threat of putting high tariffs on cashmere wool is something that the British now are certainly unhappy with.

The Europeans are already well on their way to getting their own list ready to "scare" the American exporters once they get their permission in November.

In addition to the danger of a recession and a continual problem with currency fluctuation, there are also other problems that will surely aggravate this growing trade war. The Europeans have already complained and have threatened to file suit in the WTO against the Americans for selling software products over the Internet. Europeans tax their Internet sales and are able to get their products much cheaper when bought from the United States thus penalizing European countries. Since the goal is to manage things in a so-called equitable manner the WTO very likely could rule against the United States and force a tax on our international Internet sales.

Congress has also been anxious to block the Voice Stream Communications planned purchase by Deutsche Telekom, a German government-owned phone monopoly. We have not yet heard the last of this international trade fight.

The British also have refused to allow any additional American flights into London. In the old days the British decided these problems, under the WTO the United States will surely file suit and try to get a favorable ruling in this area thus ratcheting up the trade war.

Americans are especially unhappy with the French who have refused to eliminate their farm subsidies—like we don't have any in this country.

The one group of Americans that seem to get little attention are those importers whose businesses depend on imports and thus get hit by huge tariffs. When 100 to 200 percent tariffs are placed on an imported product, this virtually puts these corporations out of business.

The one thing for certain is this process is not free trade; this is international managed trade by an international governmental body. The odds of coming up with fair trade or free trade under WTO are zero. Unfortunately, even in the language most commonly used in the Congress in promoting "free trade" it usually involves not only international government managed trade but subsidies as well, such as those obtained through the Import/Export Bank and the Overseas Private Investment Corporation and various other methods such as the Foreign Aid and our military budget.

Lastly, despite a Constitution which vests in the House authority for regulating foreign commerce (and raising revenue, i.e. taxation), this bill unconstitutionally delegates to the President the "authority" to, by Executive order, suspend the tax break by designating certain property "in short supply." Any property so designated shall not be treated as qualifying foreign trade property during the period beginning with the date specified in the Executive order.

Free trade should be our goal. We should trade with as many nations as possible. We should keep our tariffs as low as possible since tariffs are taxes and it is true that the people we trade with we are less likely to fight with. There are many good sound, economic and moral reasons why we should be engaged in free trade. But managed trade by the WTO does not qualify for that definition.

Mr. STARK. Mr. Speaker, I rise today in adamant opposition to H.R. 4986, the Foreign Sales Corporation replacement bill. This bill is a blatant form of corporate welfare, ruled illegal under international trade laws by the World Trade Organization (WTO). The U.S. has already missed two deadlines imposed by the

WTO and the European Union for repealing the FSC. I don't know which is worse—that the current leadership is so incapable of governing that they can't meet an extended deadline, or that they have failed to comply with the WTO ruling by attempting to replace one export subsidy with something remarkably similar.

Then the Senate Finance Committee made some minor changes to the bill that appears to bring the U.S. closer to WTO compliance than the House version without sacrificing the current tax benefit received by Caterpillar Inc. This version came back to the House and was voted on in H.R. 2614, the \$240 billion GOP tax package. The House leadership thought they were doing their corporate constituents a favor by attaching the FSC to a bloated tax package. Now we're here once again because the majority leadership thought they could bait Clinton into signing a bad tax bill if they attached the FSC to it. No such luck! Clinton has threatened to veto the tax bill and the Senate has no intentions of acting on it.

The bill before us today is nothing more than corporate welfare for some of the nation's most profitable industries. The European Union has filed a complaint with the World Trade Organization (WTO) that the FSC is an export tax subsidy and therefore illegal under international trade laws. I completely agree. Yet instead of repealing the tax subsidy and complying with our international trade obligations, this bill seeks to remedy the FSC with a near exact replacement.

The Institute on Taxation and Economic Policy recently released a report that shows a rise in pretax corporate profits by a total of 23.5 percent from 1996 through 1998. At the same time, U.S. Treasury corporate income tax revenues only rose by a mere 7.7 percent. In addition to the myriad of corporate tax deductions this Congress insists on expanding, programs such as the FSC can help explain the disparity in corporate profits and corporate income tax rates.

The FSC helps subsidize some of the most profitable industries such as the pharmaceutical, tobacco and weapons export industries. Why should Congress help out the pharmaceutical industry if the industry insists on charging U.S. consumers more for prescription drugs than they charge in Europe? We shouldn't! The pharmaceutical industry sells prescription drugs in the U.S. at prices that are 190–400 percent higher than what they charge in Europe. The U.S. subsidizes the pharmaceutical industry by approximately \$123 million per year through the FSC. This is unfair to the American taxpayer and must not be allowed to happen.

The top 20 percent of FSC beneficiaries obtained 87 percent of the FSC benefit in 1998. The two largest FSC beneficiaries, General Electric and Boeing, received almost \$750 million and \$686 million in FSC benefits over 8 years, respectively. RJ Reynolds' FSC benefit represents nearly six percent of its net income while Boeing's FSC benefit represents twelve percent of its earnings!

It is high time we stop allowing corporate interests to dictate U.S. spending. We didn't pass a prescription drug benefit for seniors in the 106th Congress so we shouldn't be rushing through a piece of legislation that gives corporations a \$5 billion per year tax break. I urge my colleagues to put working families, children and our seniors first, and oppose H.R. 4986.

Ms. KILPATRICK. Mr. Speaker, I rise today in opposition to the passage of H.R. 4986, the Senate Amendments to the Foreign Sales Corporation (FSC) Repeal and Extraterritorial Income Exclusion Act. While it is important that our nation's businesses have the benefit of a level playing field when competing against foreign businesses, we should not do so on the back of the American Public or to the detriment of the health and welfare of those outside of our borders. Let it not be said that we are a nation willing to sacrifice all principles for the welfare of our nation's businesses.

The measure before us, effective for transactions entered after September 30, 2000, will allow both individuals and companies an exemption from federal taxes of all income earned abroad (whether or not the product is manufactured in the United States or abroad). The measure does require that 50% of the components of the final product be manufactured in the United States. The measure also eliminates current law allowing for the creation of Foreign Sales Corporations. Although I supported the measure when it was originally considered in the House facts have come to light that have given me pause to support the measure.

I believe that there are questions concerning the process used to move this measure. The FSC is a complicated matter that warrants the full and deliberate consideration of the entire House. Considering this measure under suspension of the rules clearly inhibits this body's ability to make the most informed decision about this important matter which will affect the people we represent.

Policy questions concerning this matter also abound. For example, during consideration of the bill an amendment was pursued that would have exempted tobacco companies from the tax exemption provided under the measure. It is argued that this measure will give tobacco companies an estimated \$100 million in taxpayer subsidies to export cigarettes. It is further argued that this subsidy provides incentives to tobacco companies to maximize and promote sales in other countries. It gives me pause to think that the policy Congress endorses in this measure will give the impression that while we care about the health risks imposed by tobacco use on American lives, we are not concerned about the health risks imposed by tobacco use on foreign lives.

Questions have also been raised on the effect this measure will have on the U.S. economy. Proponents of the measure argue that the bill will spur domestic investment and employment through an increase in exports, while opponents point to studies that indicate that "export subsidies, such as FSC's, reduce global economic welfare and typically even reduce the welfare of the country granting the subsidy . . . [C]ompanies in import-competing industries reduce domestic investment and employment." I am hesitant to support a measure that may in fact be detrimental to the well being of our nation's economy.

Mr. Speaker, for these reasons I rise in opposition to H.R. 4986, and I recommend a nay vote on its passage.

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

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4986.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. STARK. 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.

PROHIBITION OF GAMING ON CERTAIN INDIAN LANDS IN CALIFORNIA

Mr. GILCHREST. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5477) to provide that gaming shall not be allowed on certain Indian trust lands in California that were purchased with certain Federal grant funds, as amended.

The Clerk read as follows:

H.R. 5477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTRICTION ON RELINQUISHMENT OF LEASE.

Prior to January 1, 2003, the Secretary of the Interior shall not approve the relinquishment of any lease entered into for the establishment of a health care facility for the members of seven Indian Tribes or Bands in San Diego County, California, unless the Secretary has determined that the relinquishment of such lease has been approved, by tribal resolution, by each of the seven Indian Tribes or Bands.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Maryland (Mr. GILCHREST) and the gentleman from Colorado (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Maryland (Mr. GILCHREST).

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

Mr. Speaker, this legislation, authored by the gentleman from California (Mr. HUNTER), will establish a moratorium on the approval by the Secretary of Interior of the relinquishment of a release of a health clinic until that relinquishment has been approved by tribal resolution by each of the seven tribes which would comprise the Southern Indian Health Council in Alpine, California.

The clinic was acquired and constructed with Indian Community Development Block Grant funds and was constructed by the Southern Indian Health Council.

I ask for Members to support this legislation.

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

Mr. UDALL of Colorado. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5477, as amended, is legislation which addresses the concerns of seven Indian tribes in Southern California to provide that lands

purchased in part with Community Development Block Grant funding are used for health care facilities unless alternatives are approved by all of the tribes.

There have been a number of complicated issues with regard to the original version of this legislation; and through the work of the gentleman from California (Mr. HUNTER) and the gentleman from California (Mr. FILNER), those issues have been addressed.

We appreciate the work of our colleagues on this legislation and support its passage.

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

Mr. GILCHREST. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman from Maryland (Mr. GILCHREST) for yielding me this time and taking the leadership, along with the Democrat side of the aisle. I note that this is bipartisan legislation supported by the gentleman from California (Mr. FILNER) and the gentleman from California (Mr. CUNNINGHAM) and the gentleman from California (Mr. BILBRAY) in the San Diego delegation.

Mr. Speaker, this is a fairly straightforward bill. This involves some 8-plus acres of land in the community in Alpine, California, in my congressional district in San Diego County. It is land that was purchased with Community Development Block Grant funds.

This land was purchased with these funds for the purpose of constructing a health clinic for the seven tribes that presently live or are located in that particular vicinity; and, indeed, the clinic today supports some 10,000 visits per year. Not only are tribal members admitted to the clinic but also non-tribal members, so it is a valuable asset.

Part of the land was put in the name of one of the tribes, the Cuyapaipe tribe, which is a wonderful tribe, some 17 members whose traditional homelands are about 50 miles away. They propose at this time, Mr. Speaker, to build a casino on this health clinic land that was purchased with CDBGs.

We think, Mr. Speaker, having looked at this, that this is a fairly substantial departure from the tradition of allowing the autonomy and all of the activities that take place once the reservation status is attached to a piece of land to allow that to be expanded to change a health clinic, which has been purchased with Federal taxpayer dollars and which resides on land that was purchased with Federal taxpayer dollars, to allow that to be converted into a totally different use; that is, one of a casino.

So this bill puts a 2-year moratorium on this transfer for this purpose. We hope that that is going to allow the tribes to try to work out some type of an adjustment, maybe some type of an arrangement. We think it is appropriate to pass it at this time to keep

this project from going forward. Again, this is supported by all the Members of the San Diego delegation. It is a bipartisan bill, and the gentleman from California (Mr. FILNER) is a cosponsor of this resolution.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to support H.R. 5477, introduced by my colleague from California. Members should be aware that this legislation sets no new standards on Indian gambling. It addresses one specific problem with one specific parcel of land in San Diego County, California.

I would hope that the matter before the House would be free from controversy. This legislation is supported by the entire San Diego delegation, with Mr. HUNTER, Mr. FILNER and myself as sponsors.

This legislation prevents the Cuyapaipe Indian tribe from using land and buildings not connected to the tribe's traditional homeland and purchased with HUD Community Development Block Grants (CDBGs) for the establishment of a massive Indian gaming casino.

The Cuyapaipe Community of Diegueno Mission Indians recently announced a proposal to relocate an outpatient health care clinic operated by the Southern Indian Health Council (SIHC) in Alpine, California. The stated purpose of the relocation is to permit the Cuyapaipe to construct a gaming casino on the clinic property, which the Cuyapaipe claim as their reservation. The Southern Indian Health Council was organized in 1982 by seven Indian tribes in southern San Diego County to provide medical care to their members. The Council's clinic provides vital health care services to Indian and non-Indian patients in a rural area of San Diego County, serving over 10,000 patients per year, many of whom are from low income families.

The Bureau of Indian Affairs (BIA) has recently rejected the Cuyapaipe tribe's application to build the casino, finding the paperwork incomplete. This provides a temporary stay of construction, leaving the door open to the future conversion of the Cuyapaipe's health care center into a casino. The legislation before us today prevents the tribe from using the clinic property to build a casino.

Nothing in this legislation will prevent the Cuyapaipe from establishing gaming facilities on their traditional homeland. This bill does not affect the ability of the Cuyapaipe to build a casino on their own reservation. In fact, as amended, the bill goes to great pains to avoid stepping on the sensitive question of Indian gaming. It does not amend the Indian Gaming Regulatory Act, and the amended version before us does not even deal with the question of the rights of tribes to conduct gaming operations, or the relationship between tribal and state governments.

Instead, the bill seeks to resolve a dispute among several tribes, by requiring that they achieve consensus before changing the use of land taken into trust for all of them. As one additional protection, the bill sunsets in January of 2003, so the prohibition is actually a two-year moratorium.

Mr. EVERETT. Mr. Speaker, I support my distinguished colleague's bill H.R. 5477, which would delay casino approval on Indian Trust Lands in California. I understand the distinguished gentleman's concern with Indian gaming and its effect on surrounding communities, especially when those effected communities are not in favor of such gambling operations.

I have similar concerns and for that reason I, along with Congressman BOB RILEY, introduced legislation (H.R. 5494) to block any construction of a gambling operation on Indian burial lands in Wetumpka, Alabama, which is located in my district.

When the Creek Indians took possession of the burial lands in 1980, they did so with federal funds as part of an agreement with the federal government that the site would not be developed. In direct violation of the agreement, the Poarch Band of the Creek Indians now want to build a full-fledged casino on the property. H.R. 5494 would both block the establishment of a casino on the tribal grounds as well as order the Alabama Attorney General to pursue legal action in federal court against the Creeks if they go forward with the construction project.

In closing, let me say I understand why communities are concerned about such activities going on in their backyard. Moral objections to casino gambling notwithstanding, such gaming activities place untold burdens on local police, fire, rescue, and other public services, not to mention the stress on local utilities and infrastructure.

Mr. UDALL of Colorado. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

Mr. GILCHREST. Mr. Speaker, I have no more 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 Maryland (Mr. GILCHREST) that the House suspend the rules and pass the bill, H.R. 5477, 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.

The title of the bill was amended so as to read:

"A bill to establish a moratorium on approval by the Secretary of the Interior of relinquishment of a lease of certain tribal lands in California."

A motion to reconsider was laid on the table.

FSC REPEAL AND EXTRATERRITORIAL INCOME EXCLUSION ACT OF 2000

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4986.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARCHER) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4986, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 316, nays 72, answered "present" 1, not voting 43, as follows:

Abercrombie	Fowler	Meeks (NY)
Aderholt	Frank (MA)	Metcalfe
Allen	Franks (NJ)	Mica
Archer	Frelinghuysen	Miller (FL)
Armey	Frost	Miller, Gary
Baca	Gallegly	Minge
Bachus	Gekas	Mink
Baird	Gephardt	Mollohan
Baker	Gibbons	Moore
Barcia	Gilchrest	Moran (KS)
Barr	Gillmor	Moran (VA)
Barrett (NE)	Gilman	Morella
Barrett (WI)	Gonzalez	Murtha
Bartlett	Goode	Myrick
Barton	Goodling	Napolitano
Bass	Gordon	Neal
Bentsen	Goss	Nethercutt
Bereuter	Graham	Ney
Berkley	Granger	Northup
Berman	Green (TX)	Norwood
Berry	Green (WI)	Nussle
Biggert	Greenwood	Ortiz
Bilbray	Gutknecht	Ose
Billirakis	Hall (OH)	Owens
Bishop	Hall (TX)	Oxley
Blagojevich	Hansen	Packard
Bliley	Hastings (FL)	Pastor
Blumenauer	Hastings (WA)	Pease
Blunt	Hayes	Pelosi
Boehler	Hayworth	Petri
Boehner	Herger	Phelps
Bonilla	Hill (IN)	Pickering
Bono	Hill (MT)	Pickett
Borski	Hilleary	Pitts
Boswell	Hilliard	Pombo
Boucher	Hinojosa	Pomeroy
Boyd	Hobson	Portman
Brady (TX)	Hoeffel	Price (NC)
Bryant	Hoekstra	Pryce (OH)
Burton	Hooley	Quinn
Buyer	Horn	Radanovich
Callahan	Houghton	Ramstad
Calvert	Hoyer	Rangel
Camp	Hunter	Regula
Campbell	Hutchinson	Reyes
Cannon	Hyde	Reynolds
Capps	Inslee	Rodriguez
Cardin	Isakson	Roemer
Castle	Istook	Rogan
Chambliss	Jackson-Lee	Rogers
Clay	(TX)	Rohrabacher
Clayton	Jenkins	Ros-Lehtinen
Clement	John	Roukema
Clyburn	Johnson (CT)	Royce
Coble	Johnson, E. B.	Ryan (WI)
Collins	Johnson, Sam	Ryun (KS)
Combest	Jones (NC)	Sabo
Cooksey	Kanjorski	Salmon
Cox	Kelly	Sanchez
Cramer	Kildee	Sandlin
Crane	Kind (WI)	Sanford
Crowley	King (NY)	Sawyer
Cubin	Kingston	Scarborough
Cummings	Knollenberg	Schaffer
Cunningham	Kolbe	Scott
Davis (FL)	Kuykendall	Sensenbrenner
Davis (VA)	LaHood	Sessions
Deal	Lampson	Shadegg
Delahunt	Lantos	Shaw
DeLauro	Larson	Shays
DeLay	Latham	Sherman
DeMint	LaTourette	Sherwood
Deutsch	Lazio	Shimkus
Diaz-Balart	Leach	Shuster
Dicks	Levin	Simpson
Dixon	Lewis (CA)	Sisisky
Dooley	Lewis (KY)	Skeen
Doolittle	Linder	Skelton
Doyle	Lofgren	Smith (MI)
Dreier	Lowey	Smith (NJ)
Duncan	Lucas (KY)	Smith (TX)
Dunn	Lucas (OK)	Smith (WA)
Edwards	Manzullo	Snyder
Ehlers	Martinez	Souder
Ehrlich	Mascara	Spence
Emerson	Matsui	Spratt
Engel	McCarthy (MO)	Stabenow
English	McCollum	Stearns
Eshoo	McCrery	Stump
Etheridge	McDermott	Sununu
Everett	McHugh	Sweeney
Ewing	McInnis	Tancred
Fletcher	McIntyre	Tanner
Foley	McKeon	Tauscher
Ford	McNulty	Tauzin
Fossella	Meek (FL)	Terry

[Roll No. 597]

YEAS—316

Thomas	Upton	Wexler
Thompson (CA)	Vitter	Whitfield
Thompson (MS)	Walden	Wicker
Thornberry	Walsh	Wilson
Thune	Wamp	Wolf
Tiahrt	Watkins	Wu
Toomey	Watts (OK)	Wynn
Towns	Weldon (FL)	Young (AK)
Trafigant	Weldon (PA)	Young (FL)
Turner	Weller	

NAYS—72

Andrews	Jackson (IL)	Rivers
Baldacci	Jones (OH)	Rothman
Baldwin	Kilpatrick	Roybal-Allard
Bonior	Kucinich	Rush
Brady (PA)	LaFalce	Sanders
Brown (OH)	Lee	Saxton
Capuano	Lewis (GA)	Schakowsky
Carson	Lipinski	Serrano
Chabot	LoBiondo	Shows
Chenoweth-Hage	Luther	Slaughter
Condit	Maloney (CT)	Stark
Conyers	Markey	Strickland
Cook	McGovern	Stupak
Costello	McKinney	Taylor (MS)
Davis (IL)	Menendez	Thurman
DeFazio	Miller, George	Tierney
DeGette	Nadler	Udall (CO)
Dingell	Oberstar	Udall (NM)
Doggett	Obey	Velazquez
Evans	Olver	Visclosky
Gutierrez	Pallone	Waters
Hinchee	Payne	Watt (NC)
Holt	Peterson (MN)	Waxman
Hostettler	Rahall	Woolsey

ANSWERED "PRESENT"—1

Paul

NOT VOTING—43

Ackerman	Gejdenson	Meehan
Ballenger	Goodlatte	Millender-
Becerra	Hefley	McDonald
Brown (FL)	Holden	Moakley
Burr	Hulshof	Pascrell
Canady	Jefferson	Peterson (PA)
Coburn	Kaptur	Porter
Coyne	Kasich	Riley
Danner	Kennedy	Stenholm
Dickey	Kleczka	Talent
Farr	Klink	Taylor (NC)
Fattah	Largent	Weiner
Filner	Maloney (NY)	Weygand
Forbes	McCarthy (NY)	Wise
Ganske	McIntosh	

□ 1122

Messrs. SAXTON, COSTELLO, COOK and RUSH, Ms. VELAZQUEZ, Mr. VIS-CLOSKY, Mr. BRADY of Pennsylvania and Ms. SLAUGHTER changed their vote from "yea" to "nay."

Messrs. HALL of Ohio, FORD, CUMMINGS and ENGEL changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RILEY. Mr. Speaker, I was unavoidably detained for rollcall No. 597, H.R. 4986, the Foreign Sales Corporation (FCS) Repeal and Extraterritorial Income Extension Act. Had I been present I would have voted "yea."

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall No. 597, I was in my Congressional District on official business. Had I been present, I would have voted "nay."

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE HOUSE AND CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 442) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 442

Resolved by the House of Representatives (the Senate concurring). That when the House adjourns on the legislative day of Tuesday, November 14, 2000, or Wednesday, November 15, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Monday, December 4, 2000, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Tuesday, November 14, 2000, or Wednesday, November 15, 2000, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, December 5, 2000, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 25 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1735

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PEASE) at 5 o'clock and 35 minutes p.m.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2001

Mr. ISTOOK. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations be discharged from further consideration of the bill (H.R. 5633) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2001, and for

other purposes, to the end that the bill be hereby passed; and that a motion to reconsider be hereby laid on the table.

The Clerk read the title of the bill.

The text of H.R. 5633 is as follows:

H.R. 5633

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 2001, and for other purposes, namely:

FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

For a Federal payment to the District of Columbia for a nationwide program to be administered by the Mayor for District of Columbia resident tuition support, \$17,000,000, to remain available until expended: *Provided*, That such funds may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, usable at both public and private institutions for higher education: *Provided further*, That the awarding of such funds may be prioritized on the basis of a resident's academic merit and such other factors as may be authorized.

FEDERAL PAYMENT FOR INCENTIVES FOR ADOPTION OF CHILDREN

The paragraph under the heading "Federal Payment for Incentives for Adoption of Children" in Public Law 106-113, approved November 29, 1999 (113 Stat. 1501), is amended to read as follows: "For a Federal payment to the District of Columbia to create incentives to promote the adoption of children in the District of Columbia foster care system, \$5,000,000: *Provided*, That such funds shall remain available until September 30, 2002, and shall be used to carry out all of the provisions of title 38, except for section 3808, of the Fiscal Year 2001 Budget Support Act of 2000, D.C. Bill 13-679, enrolled June 12, 2000."

FEDERAL PAYMENT TO THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Chief Financial Officer of the District of Columbia, \$1,250,000, of which \$250,000 shall be for payment to a mentoring program and for hotline services; \$250,000 shall be for payment to a youth development program with a character building curriculum; \$250,000 shall be for payment to a basic values training program; and \$500,000, to remain available until expended, shall be for the design, construction, and maintenance of a trash rack system to be installed at the Hickey Run stormwater outfall.

FEDERAL PAYMENT FOR COMMERCIAL REVITALIZATION PROGRAM

For a Federal payment to the District of Columbia, \$1,500,000, to remain available until expended, for the Mayor, in consultation with the Council of the District of Columbia, to provide offsets against local taxes for a commercial revitalization program, such program to provide financial inducements, including loans, grants, offsets to local taxes and other instruments that promote commercial revitalization in Enterprise Zones and low and moderate income areas in the District of Columbia: *Provided*, That in carrying out such a program, the Mayor shall use Federal commercial revitalization proposals introduced in Congress as a guideline: *Provided further*, That not later than 180 days after the date of the enactment of this Act, the Mayor shall report to the

Committees on Appropriations of the Senate and House of Representatives on the progress made in carrying out the commercial revitalization program.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS

For a Federal payment to the District of Columbia Public Schools, \$500,000: *Provided*, That \$250,000 of said amount shall be used for a program to reduce school violence: *Provided further*, That \$250,000 of said amount shall be used for a program to enhance the reading skills of District public school students.

FEDERAL PAYMENT TO THE METROPOLITAN POLICE DEPARTMENT

For a Federal payment to the Metropolitan Police Department, \$100,000: *Provided*, That said funds shall be used to fund a youth safe haven police mini-station for mentoring high risk youth.

FEDERAL CONTRIBUTION TO COVENANT HOUSE WASHINGTON

For a Federal contribution to Covenant House Washington for a contribution to the construction in Southeast Washington of a new community service center for homeless, runaway and at-risk youth, \$500,000.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA CORRECTIONS TRUSTEE OPERATIONS

For salaries and expenses of the District of Columbia Corrections Trustee, \$134,200,000 for the administration and operation of correctional facilities and for the administrative operating costs of the Office of the Corrections Trustee, as authorized by section 11202 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Public Law 105-33; 111 Stat. 712) of which \$1,000,000 is to fund an initiative to improve case processing in the District of Columbia criminal justice system: *Provided*, That notwithstanding any other provision of law, funds appropriated in this Act for the District of Columbia Corrections Trustee shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That in addition to the funds provided under this heading, the District of Columbia Corrections Trustee may use any remaining interest earned on the Federal payment made to the Trustee under the District of Columbia Appropriations Act, 1998, to carry out the activities funded under this heading.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

For salaries and expenses for the District of Columbia Courts, \$105,000,000 to be allocated as follows: for the District of Columbia Court of Appeals, \$7,409,000; for the District of Columbia Superior Court, \$71,121,000; for the District of Columbia Court System, \$17,890,000; \$5,255,000 to finance a pay adjustment of 8.48 percent for nonjudicial employees; and \$3,325,000, including \$825,000 for roofing repairs to the facility commonly referred to as the Old Courthouse and located at 451 Indiana Avenue, Northwest, to remain available until September 30, 2002, for capital improvements for District of Columbia court-house facilities: *Provided*, That none of the funds in this Act or in any other Act shall be available for the purchase, installation or operation of an Integrated Justice Information System until a detailed plan and design has been submitted by the courts and approved by the Committees on Appropriations of the House of Representatives and the Senate: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and

Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11-2604 and section 11-2605, D.C. Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Division of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Code, and payments for counsel authorized under section 21-2060, D.C. Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), \$34,387,000, to remain available until expended: *Provided*, That the funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the \$3,325,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: *Provided further*, That, in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the \$3,325,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: *Provided further*, That such funds shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: *Provided further*, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), said services to include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives: *Provided further*, That the District of Columbia Courts shall implement the recommendations in the General Accounting Office Report GAO/AIMD/OGC-99-226 regarding payments to court-appointed attorneys and shall report quarterly to the Office of Management and Budget and to the House and Senate Appropriations Committees on the status of these reforms.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia, as authorized by the National Capital Revitaliza-

tion and Self-Government Improvement Act of 1997 (Public Law 105-33; 111 Stat. 712), \$112,527,000, of which \$67,521,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to supervision of adults subject to protection orders or provision of services for or related to such persons; \$18,778,000 shall be transferred to the Public Defender Service; and \$26,228,000 shall be available to the Pretrial Services Agency: *Provided*, That of the amount provided under this heading, \$17,854,000 shall be used to improve pretrial defendant and post-conviction offender supervision, enhance drug testing and sanctions-based treatment programs and other treatment services, expand intermediate sanctions and offender re-entry programs, continue planning and design proposals for a residential Sanctions Center and improve administrative infrastructure, including information technology; and \$836,000 of the \$17,854,000 referred to in this proviso is for the Public Defender Service: *Provided further*, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: *Provided further*, That notwithstanding section 446 of the District of Columbia Home Rule Act or any provision of subchapter III of chapter 13 of title 31, United States Code, the use of interest earned on the Federal payment made to the District of Columbia Offender Supervision, Defender, and Court Services Agency under the District of Columbia Appropriations Act, 1998, by the Agency during fiscal years 1998 and 1999 shall not constitute a violation of such Act or such subchapter.

FEDERAL PAYMENT FOR WASHINGTON INTERFAITH NETWORK

For a Federal payment to the Washington Interfaith Network to reimburse the Network for costs incurred in carrying out preconstruction activities at the former Fort Dupont Dwellings and Additions, \$1,000,000: *Provided*, That such activities may include architectural and engineering studies, property appraisals, environmental assessments, grading and excavation, landscaping, paving, and the installation of curbs, gutters, sidewalks, sewer lines, and other utilities: *Provided further*, That the Secretary of the Treasury shall make such payment only after the Network has received matching funds from private sources (including funds provided through loans) to carry out such activities in an aggregate amount which is equal to the amount of such payment (as certified by the Inspector General of the District of Columbia) and has provided the Secretary of the Treasury with a request for reimbursement which contains documentation certified by the Inspector General of the District of Columbia showing that the Network carried out the activities and that the costs incurred in carrying out the activities were equal to or less than the amount of the reimbursement requested: *Provided further*, That none of the funds provided under this heading may be obligated or expended after December 31, 2001 (without regard to whether the activities involved were carried out prior to such date).

FEDERAL PAYMENT FOR PLAN TO SIMPLIFY EMPLOYEE COMPENSATION SYSTEMS

For a Federal payment to the Mayor of the District of Columbia for a contract for the study and development of a plan to simplify the compensation systems, schedules, and work rules applicable to employees of the District government, \$250,000: *Provided*, That under the terms of the contract the plan shall include (at a minimum) a review of the

current compensation systems, schedules, and work rules applicable to such employees; a review of the best practices regarding the compensation systems, schedules, and work rules of State and local governments and other appropriate organizations; a proposal for simplifying the systems, schedules, and rules applicable to employees of the District government; and the development of strategies for implementing such proposal, including an identification of any statutory, contractual, or other barriers to implementing the proposal and an estimated time frame for implementing the proposal: *Provided further*, That under the terms of the contract the contractor shall submit the plan to the Mayor and to the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That the Mayor shall develop a proposed solicitation for the contract not later than 90 days after the date of the enactment of this Act and shall submit a copy of the proposed solicitation to the Comptroller General for review at least 90 days prior to the issuance of such solicitation: *Provided further*, That not later than 45 days after receiving the proposed solicitation from the Mayor, the Comptroller General shall review the solicitation to ensure that it adequately addresses all of the necessary elements described under this heading and report to the Committees on Appropriations of the House of Representatives and Senate on the results of this review: *Provided further*, That for purposes of this contract the term "District government" has the meaning given such term in section 305(5) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47-393(5), D.C. Code), except that such term shall not include the courts of the District of Columbia and shall include the District of Columbia Financial Responsibility and Management Assistance Authority.

METRO RAIL CONSTRUCTION

For the Washington Metropolitan Area Transit Authority [WMATA], a contribution of \$25,000,000, to remain available until expended, to design and build a Metrorail station located at New York and Florida Avenues, Northeast: *Provided*, That prior to the release of said funds from the U.S. Treasury, the District of Columbia shall set aside an additional \$25,000,000 for this project in its Fiscal Year 2001 Budget and Financial Plan and, further, shall establish a special taxing district for the neighborhood of the proposed Metrorail station to provide \$25,000,000: *Provided further*, That the requirements of 49 U.S.C. 5309(a)(2) shall apply to this project.

FEDERAL PAYMENT FOR BROWNFIELD REMEDIATION

For a Federal payment to the District of Columbia, \$3,450,000 for environmental and infrastructure costs at Poplar Point: *Provided*, That of said amount, \$2,150,000 shall be available for environmental assessment, site remediation and wetlands restoration of the 11 acres of real property under the jurisdiction of the District of Columbia: *Provided further*, That no more than \$1,300,000 shall be used for infrastructure costs for an entrance to Anacostia Park: *Provided further*, That none of said funds shall be used by the District of Columbia to purchase private property in the Poplar Point area.

PRESIDENTIAL INAUGURATION

For a payment to the District of Columbia to reimburse the District for expenses incurred in connection with Presidential inauguration activities, \$5,961,000, as authorized by section 737(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1132), which shall be apportioned by the Chief Financial

Officer within the various appropriation headings in this Act.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center in the District of Columbia, \$500,000 to be used for the network of satellite pediatric health clinics for children and families in underserved neighborhoods and communities in the District of Columbia.

CHILD ADVOCACY CENTER

For a Federal contribution to the Child Advocacy Center for its Safe Shores program, \$500,000.

ST. COLETTA OF GREATER WASHINGTON EXPANSION PROJECT

For a Federal contribution to St. Coletta of Greater Washington, Inc. for costs associated with the establishment of a day program and comprehensive case management services for mentally retarded and multiple-handicapped adolescents and adults in the District of Columbia, including property acquisition and construction, \$1,000,000.

DISTRICT OF COLUMBIA SPECIAL OLYMPICS

For a Federal contribution to the District of Columbia Special Olympics, \$250,000.

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: *Provided*, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act and section 126 of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2001 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or \$5,677,379,000 (of which \$172,607,000 shall be from intra-District funds and \$3,250,783,000 shall be from local funds): *Provided further*, That the Chief Financial Officer of the District of Columbia and the District of Columbia Financial Responsibility and Management Assistance Authority shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2001, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

DISTRICT OF COLUMBIA FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY

For the District of Columbia Financial Responsibility and Management Assistance Authority (Authority), established by section 101(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (109 Stat. 97; Public Law 104-8), \$3,140,000: *Provided*, That these funds be derived from accounts held by the Authority on behalf of the District of Columbia: *Provided further*, That none of the funds contained in this Act may be used to pay any compensation of the Executive Director or General Counsel of the Authority at a rate in excess of the maximum rate of compensation which may be paid to such individual during fiscal year 2001 under section 102 of such Act, as determined by the Comptroller General (as described in GAO letter report B-279095.2): *Provided further*, That none of the funds contained in this Act or any other

funds available to the Authority or any other entity of the District of Columbia government from any source (including any accounts of the Authority) may be used for any payments (including but not limited to severance or bonus payments, and payments under agreements in effect before the enactment of this Act) to any individual upon or following the individual's separation from employment with the Authority (other than a payment of the individual's regular salary for services performed prior to separation or a payment for unused annual leave accrued by the individual), except that an individual who is employed by the Authority during the entire period which begins on the date of the enactment of this Act and ends on September 30, 2001, may receive a severance payment after such date in an aggregate amount which does not exceed the product of 200 percent of the individual's average weekly salary during the final 12-month period (or portion thereof) during which the individual was employed by the Authority and the number of full years during which the individual was employed by the Authority.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, \$195,771,000 (including \$162,172,000 from local funds, \$20,424,000 from Federal funds, and \$13,175,000 from other funds): *Provided*, That not to exceed \$2,500 for the Mayor, \$2,500 for the Chairman of the Council of the District of Columbia, and \$2,500 for the City Administrator shall be available from this appropriation for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That all employees permanently assigned to work in the Office of the Mayor shall be paid from funds allocated to the Office of the Mayor: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That \$303,000 and no fewer than 5 FTEs shall be available exclusively to support the Labor-Management Partnership Council: *Provided further*, That, effective September 30, 2000, section 168(a) of the District of Columbia Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1531) is amended by inserting ", to remain available until expended," after "\$5,000,000": *Provided further*, That not later than March 1, 2001, the Chief Financial Officer of the District of Columbia shall submit a study to the Committees on Appropriations of the House of Representatives and Senate on the merits and potential savings of privatizing the operation and administration of Saint Elizabeths Hospital.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, \$205,638,000 (including \$53,562,000 from local funds, \$92,378,000 from Federal funds, and \$59,698,000 from other funds), of which \$15,000,000 collected by the District of Columbia in the form of BID tax revenue shall be

paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11-134; D.C. Code, sec. 1-2271 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12-26): *Provided*, That such funds are available for acquiring services provided by the General Services Administration: *Provided further*, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase or lease of 135 passenger carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, and such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government \$762,546,000 (including \$591,565,000 from local funds, \$24,950,000 from Federal funds, and \$146,031,000 from other funds): *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Department of Fire and Emergency Medical Services of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed \$500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be \$500,000: *Provided further*, That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed \$500,000: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further*, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved: *Provided further*, That the Metropolitan Police Department is authorized to maintain 3,800 sworn officers, with leave for a 50 officer attrition: *Provided further*, That no more than 15 members of the Metropolitan Police Department shall be detailed or assigned to the Executive Protection Unit, until the Chief of Police submits a recommendation to the Council for its review: *Provided further*, That \$100,000 shall be available for inmates released on medical and geriatric parole: *Provided further*, That commencing on December 31, 2000, the Metropolitan Police Department shall provide to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives, quarterly reports on the status of crime reduction in each of the 83 police service areas es-

tablished throughout the District of Columbia.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, \$998,918,000 (including \$824,867,000 from local funds, \$147,643,000 from Federal funds, and \$26,408,000 from other funds), to be allocated as follows: \$769,943,000 (including \$629,309,000 from local funds, \$133,490,000 from Federal funds, and \$7,144,000 from other funds), for the public schools of the District of Columbia; \$200,000 from local funds for the District of Columbia Teachers' Retirement Fund; \$1,679,000 from local funds for the State Education Office, \$17,000,000 from local funds, previously appropriated in this Act as a Federal payment, for resident tuition support at public and private institutions of higher learning for eligible District of Columbia residents; and \$105,000,000 from local funds for public charter schools: *Provided*, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of each fiscal year: *Provided further*, That the District of Columbia public charter schools will report enrollment on a quarterly basis upon which a quarterly disbursement will be calculated: *Provided further*, That the quarterly payment of October 15, 2000, shall be fifty (50) percent of each public charter school's annual entitlement based on its unaudited October 5 enrollment count: *Provided further*, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall be available for public education in accordance with the School Reform Act of 1995 (D.C. Code, sec. 31-2853.43(A)(2)(D); Public Law 104-134, as amended): *Provided further*, That \$480,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: *Provided further*, That \$76,433,000 (including \$44,691,000 from local funds, \$13,199,000 from Federal funds, and \$18,543,000 from other funds) shall be available for the University of the District of Columbia: *Provided further*, That \$200,000 is allocated for the East of the River Campus Assessment Study, \$1,000,000 for the Excel Institute Adult Education Program to be used by the Institute for construction and to acquire construction services provided by the General Services Administration on a reimbursable basis, \$500,000 for the Adult Education State Plan, \$650,000 for The Saturday Academy Pre-College Program, and \$481,000 for the Strengthening of Academic Programs; and \$26,459,000 (including \$25,208,000 from local funds, \$550,000 from Federal funds and \$701,000 other funds) for the Public Library: *Provided further*, That the \$1,020,000 enhancement shall be allocated such that \$500,000 is used for facilities improvements for 8 of the 26 library branches, \$235,000 for 13 FTEs for the continuation of the Homework Helpers Program, \$166,000 for 3 FTEs in the expansion of the Reach Out And Roar (ROAR) service to license day care homes, and \$119,000 for 3 FTEs to expand literacy support into branch libraries: *Provided further*, That \$2,204,000 (including \$1,780,000 from local funds, \$404,000 from Federal funds and \$20,000 from other funds) shall be available for the Commission on the Arts and Humanities: *Provided further*, That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further*, That not to exceed \$2,500 for the Superintendent of Schools, \$2,500 for the President of the University of the District of Columbia, and \$2,000 for the Public Librarian shall be

available from this appropriation for official purposes: *Provided further*, That none of the funds contained in this Act may be made available to pay the salaries of any District of Columbia Public School teacher, principal, administrator, official, or employee who knowingly provides false enrollment or attendance information under article II, section 5 of the Act entitled "An Act to provide for compulsory school attendance, for the taking of a school census in the District of Columbia, and for other purposes", approved February 4, 1925 (D.C. Code, sec. 31-401 et seq.): *Provided further*, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary and secondary school during fiscal year 2001 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia which are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): *Provided further*, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2001, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further*, That \$2,200,000 is allocated to the Temporary Weighted Student Formula to fund 344 additional slots for pre-K students: *Provided further*, That \$50,000 is allocated to fund a conference on learning support for children ages 3-4 hosted jointly by the District of Columbia Public Schools and District of Columbia public charter schools: *Provided further*, That no local funds in this Act shall be used to administer a system-wide standardized test more than once in FY 2001: *Provided further*, That no less than \$436,452,000 shall be expended on local schools through the Weighted Student Formula: *Provided further*, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: *Provided further*, That the District of Columbia Public Schools shall spend \$250,000 to engage in a Schools Without Violence program based on a model developed by the University of North Carolina, located in Greensboro, North Carolina: *Provided further*, That the District of Columbia Public Schools shall spend \$250,000 to implement a Failure Free Reading program in the District's public schools: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2001, an amount equal to 25 percent of the total amount provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2002 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2002: *Provided further*, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2001, an amount equal to 10 percent of the total amount provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal

year 2002 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2002.

HUMAN SUPPORT SERVICES
(INCLUDING TRANSFER OF FUNDS)

Human support services, \$1,535,654,000 (including \$637,347,000 from local funds, \$881,589,000 from Federal funds, and \$16,718,000 from other funds): *Provided*, That \$25,836,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further*, That the District of Columbia shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization, as defined in section 411(5) of the Stewart B. McKinney Homeless Assistance Act (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11371), providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to such Act (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.): *Provided further*, That \$1,250,000 shall be paid to the Doe Fund for the operation of its Ready, Willing, and Able Program in the District of Columbia as follows: \$250,000 to cover debt owed by the District of Columbia government for services rendered shall be paid to the Doe Fund within 15 days of the enactment of this Act; and \$1,000,000 shall be paid in equal monthly installments by the 15th day of each month: *Provided further*, That \$400,000 shall be available for the administrative costs associated with implementation of the Drug Treatment Choice Program established pursuant to section 4 of the Choice in Drug Treatment Act of 2000, signed by the Mayor on April 20, 2000 (D.C. Act 13-329): *Provided further*, That \$7,000,000 shall be available for deposit in the Addiction Recovery Fund established pursuant to section 5 of the Choice in Drug Treatment Act of 2000, signed by the Mayor on April 20, 2000 (D.C. Act 13-329): *Provided further*, That the District of Columbia is authorized to enter into a long-term lease of Hamilton Field with Gonzaga College High School and that, in exchange for such a lease, Gonzaga will introduce and implement a youth baseball program focused on 13 to 18 year old residents, said program to include summer and fall baseball programs and baseball clinics: *Provided further*, That notwithstanding any other provision of law, to augment the District of Columbia subsidy for the District of Columbia Health and Hospitals Public Benefit Corporation, the District of Columbia may transfer from other non-Federal funds appropriated under this Act to the Human Support Services appropriation under this Act an amount not to exceed \$90,000,000 for the purpose of restructuring the delivery of health services in the District of Columbia: *Provided further*, That such restructuring shall be pursuant to a restructuring plan approved by the Mayor of the District of Columbia, the Council of the District of Columbia, the District of Columbia Financial Responsibility and Management Assistance Authority, and the Board of Directors of the Public Benefit Corporation: *Provided further*, That—

(1) the restructuring plan reduces personnel levels of D.C. General Hospital and of the Public Benefit Corporation consistent with the reduction in force set forth in the August 25, 2000, resolution of the Board of Directors of the Public Benefit Corporation regarding personnel structure, by reducing personnel by at least 500 full-time equivalent employees, without replacement by contract personnel;

(2) no transferred funds are expended until 10 calendar days after the restructuring plan has received final approval and a copy evidencing final approval has been submitted by the Mayor to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate; and

(3) the plan includes a certification that the plan does not request and does not rely upon any current or future request for additional appropriation of Federal funds.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, \$278,242,000 (including \$265,078,000 from local funds, \$3,328,000 from Federal funds, and \$9,836,000 from other funds): *Provided*, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further*, That \$100,000 shall be available for a commercial sector recycling initiative, \$250,000 to initiate a recycling education campaign, \$10,000 for community clean-up kits, \$190,000 to restore a 3.5 percent vacancy rate in Parking Services, \$170,000 to plant 500 trees, \$118,000 for two water trucks, \$150,000 for contract monitors and parking analysts within Parking Services, \$1,409,000 for a neighborhood cleanup initiative, \$1,000,000 for tree maintenance, \$600,000 for an anti-graffiti program, \$226,000 for a hazardous waste program, \$1,260,000 for parking control aides, and \$400,000 for the Department of Motor Vehicles to hire additional ticket adjudicators, conduct additional hearings, and reduce the waiting time for hearings.

RECEIVERSHIP PROGRAMS

For all agencies of the District of Columbia government under court ordered receivership, \$389,528,000 (including \$234,913,000 from local funds, \$135,555,000 from Federal funds, and \$19,060,000 from other funds).

RESERVE

For replacement of funds expended, if any, during fiscal year 2000 from the Reserve established by section 202(j) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, Public Law 104-8, \$150,000,000 from local funds: *Provided*, That none of these funds shall be obligated or expended under this heading until the emergency reserve fund established under this Act has been fully funded for fiscal year 2001 pursuant to section 450A of the District of Columbia Home Rule Act as set forth herein.

EMERGENCY RESERVE FUND

For the emergency reserve fund established under section 450A(a) of the District of Columbia Home Rule Act, the amount provided for fiscal year 2001 under such section, to be derived from local funds.

REPAYMENT OF LOANS AND INTEREST

For payment of principal, interest and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act, approved December 24, 1973, \$243,238,000 from local funds: *Provided*, That any funds set aside pursuant to section 148 of the District of Columbia Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1523) that are not used in the reserve funds established herein shall be used for Pay-As-You-Go Capital Funds: *Provided further*, That for equipment leases, the Mayor may finance \$19,232,000 of equipment

cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years: *Provided further*, That \$2,000,000 is allocated to the Metropolitan Police Department, \$4,300,000 for the Fire and Emergency Medical Services Department, \$1,622,000 for the Public Library, \$2,010,000 for the Department of Parks and Recreation, \$7,500,000 for the Department of Public Works, and \$1,800,000 for the Public Benefit Corporation.

REPAYMENT OF GENERAL FUND RECOVERY
DEBT

For the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990, \$39,300,000 from local funds, as authorized by section 461(a) of the District of Columbia Home Rule Act, (105 Stat. 540; D.C. Code, sec. 47-321(a)(1)).

PAYMENT OF INTEREST ON SHORT-TERM
BORROWING

For payment of interest on short-term borrowing, \$1,140,000 from local funds.

PRESIDENTIAL INAUGURATION

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Home Rule Act, Public Law 93-198, as amended, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), \$5,961,000 from local funds, previously appropriated in this Act as a Federal payment, which shall be apportioned by the Chief Financial Officer within the various appropriation headings in this Act.

CERTIFICATES OF PARTICIPATION

For lease payments in accordance with the Certificates of Participation involving the land site underlying the building located at One Judiciary Square, \$7,950,000 from local funds.

WILSON BUILDING

For expenses associated with the John A. Wilson Building, \$8,409,000 from local funds.

OPTICAL AND DENTAL INSURANCE PAYMENTS

For optical and dental insurance payments, \$2,675,000 from local funds.

MANAGEMENT SUPERVISORY SERVICE

For management supervisory service, \$13,200,000 from local funds, to be transferred by the Mayor of the District of Columbia among the various appropriation headings in this Act for which employees are properly payable.

TOBACCO SETTLEMENT TRUST FUND TRANSFER
PAYMENT

Subject to the issuance of bonds to pay the purchase price of the District of Columbia's right, title and interest in and to the Master Settlement Agreement, and consistent with the Tobacco Settlement Financing and Trust Fund Amendment Act of 2000, there is transferred the amount available pursuant thereto, but not to exceed \$61,406,000, to the Tobacco Settlement Trust Fund established pursuant to section 2302 of the Tobacco Settlement Trust Fund Establishment Act of 1999, effective October 20, 1999 (D.C. Law 13-38; to be codified at D.C. Code, sec. 6-135), to be spent pursuant to local law.

OPERATIONAL IMPROVEMENTS SAVINGS
(INCLUDING MANAGED COMPETITION)

The Mayor and the Council, in consultation with the Chief Financial Officer and the District of Columbia Financial Responsibility and Management Assistance Authority, shall make reductions of \$10,000,000 for operational improvements savings in local funds to one or more of the appropriation headings in this Act.

MANAGEMENT REFORM SAVINGS

The Mayor and the Council, in consultation with the Chief Financial Officer and the

District of Columbia Financial Responsibility and Management Assistance Authority, shall make reductions of \$37,000,000 for management reform savings in local funds to one or more of the appropriation headings in this Act.

CAFETERIA PLAN SAVINGS

For the implementation of a Cafeteria Plan pursuant to Federal law, a reduction of \$5,000,000 in local funds.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY AND THE WASHINGTON AQUEDUCT

For operation of the Water and Sewer Authority and the Washington Aqueduct, \$275,705,000 from other funds (including \$230,614,000 for the Water and Sewer Authority and \$45,091,000 for the Washington Aqueduct) of which \$41,503,000 shall be apportioned and payable to the District's debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, \$140,725,000, as authorized by the Act entitled "An Act authorizing the laying of watermains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes" (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided*, That the requirements and restrictions that are applicable to general fund capital improvements projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982 (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3-172; D.C. Code, sec. 2-2501 et seq. and sec. 22-1516 et seq.), \$223,200,000: *Provided*, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

SPORTS AND ENTERTAINMENT COMMISSION

For the Sports and Entertainment Commission, \$10,968,000 from other funds: *Provided*, That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Home Rule Act (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

DISTRICT OF COLUMBIA HEALTH AND HOSPITALS PUBLIC BENEFIT CORPORATION (INCLUDING TRANSFER OF FUNDS)

For the District of Columbia Health and Hospitals Public Benefit Corporation, established by D.C. Law 11-212 (D.C. Code, sec. 32-262.2), \$123,548,000, of which \$45,313,000 shall be derived by transfer from the general fund, and \$78,235,000 from other funds: *Provided*, That no appropriated amounts and no amounts from or guaranteed by the District of Columbia government (including the District of Columbia Financial Responsibility and Management Assistance Authority) may be made available to the Corporation (through reprogramming, transfers, loans, or any other mechanism) which are not otherwise provided for under this heading until a restructuring plan for D.C. General Hospital has been approved by the Mayor of the Dis-

trict of Columbia, the Council of the District of Columbia, the Authority, the Chief Financial Officer of the District of Columbia, and the Chair of the Board of Directors of the Corporation: *Provided further*, That for each payment or group of payments made by or on behalf of the Corporation, the Chief Financial Officer of the District of Columbia shall sign an affidavit certifying that the making of the payment does not constitute a violation of any provision of subchapter III of chapter 13 of title 31, United States Code, or of any provision of this Act: *Provided further*, That more than one payment may be covered by the same affidavit under the previous proviso, but a single affidavit may not cover more than one week's worth of payments: *Provided further*, That it shall be unlawful for any person to order any other person to sign any affidavit required under this heading, or for any person to provide any signature required under this heading on such an affidavit by proxy or by machine, computer, or other facsimile device.

DISTRICT OF COLUMBIA RETIREMENT BOARD

For the District of Columbia Retirement Board, established by section 121 of the District of Columbia Retirement Reform Act of 1979 (93 Stat. 866; D.C. Code, sec. 1-711), \$11,414,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided*, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

CORRECTIONAL INDUSTRIES FUND

For the Correctional Industries Fund, established by the District of Columbia Correctional Industries Establishment Act (78 Stat. 1000; Public Law 88-622), \$1,808,000 from other funds.

WASHINGTON CONVENTION CENTER ENTERPRISE FUND

For the Washington Convention Center Enterprise Fund, \$52,726,000 from other funds.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of \$1,077,282,000 of which \$806,787,000 is from local funds, \$66,446,000 is from highway trust funds, and \$204,049,000 is from Federal funds, and a rescission of \$55,208,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$1,022,074,000 to remain available until expended: *Provided*, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further*, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further*, That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal Aid Highway Act of 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 2002, except authorizations for projects as to which funds have been obli-

gated in whole or in part prior to September 30, 2002: *Provided further*, That upon expiration of any such project authorization, the funds provided herein for the project shall lapse.

GENERAL PROVISIONS

SEC. 101. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 102. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That in the case of the Council of the District of Columbia, funds may be expended with the authorization of the chair of the Council.

SEC. 103. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 104. (a) REQUIRING MAYOR TO MAINTAIN INDEX.—Effective with respect to fiscal year 2001 and each succeeding fiscal year, the Mayor of the District of Columbia shall maintain an index of all employment personal services and consulting contracts in effect on behalf of the District government, and shall include in the index specific information on any severance clause in effect under any such contract.

(b) PUBLIC INSPECTION.—The index maintained under subsection (a) shall be kept available for public inspection during regular business hours.

(c) CONTRACTS EXEMPTED.—Subsection (a) shall not apply with respect to any collective bargaining agreement or any contract entered into pursuant to such a collective bargaining agreement.

(d) DISTRICT GOVERNMENT DEFINED.—In this section, the term "District government" means the government of the District of Columbia, including—

(1) any department, agency or instrumentality of the government of the District of Columbia;

(2) any independent agency of the District of Columbia established under part F of title IV of the District of Columbia Home Rule Act or any other agency, board, or commission established by the Mayor or the Council;

(3) the Council of the District of Columbia;

(4) any other agency, public authority, or public benefit corporation which has the authority to receive monies directly or indirectly from the District of Columbia (other than monies received from the sale of goods, the provision of services, or the loaning of funds to the District of Columbia); and

(5) the District of Columbia Financial Responsibility and Management Assistance Authority.

(e) No payment shall be made pursuant to any such contract subject to subsection (a), nor any severance payment made under such contract, if a copy of the contract has not been filed in the index. Interested parties may file copies of their contract or severance agreement in the index on their own behalf.

SEC. 105. No part of any appropriation contained in this Act shall remain available for

obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 106. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 107. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 108. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 109. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 110. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowings and spending progress compared with projections.

SEC. 111. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2001, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for an agency through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or responsibility center; (3) establishes or changes allocations specifically denied, limited or increased by Congress in this Act; (4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted; (5) reestablishes through reprogramming any program or project previously deferred through reprogramming; (6) augments existing programs, projects, or responsibility centers through a reprogramming of funds in excess of \$1,000,000 or 10 percent, whichever is less; or (7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center; unless the Committees on Appropriations of both the Senate and House of Representatives are notified in writing 30 days in advance of any reprogramming as set forth in this section.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a reprogramming of funds which transfers any local funds from one appropriation to another unless the Committees on Appropriations of the Senate and House of Representatives are notified in writing 30 days in advance of the transfer, except that in no event may the amount of any funds transferred ex-

ceed two percent of the local funds in the appropriation.

SEC. 112. Consistent with the provisions of 31 U.S.C. 1301(a), appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 113. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 114. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 2001, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 2001 revenue estimates as of the end of the first quarter of fiscal year 2001. These estimates shall be used in the budget request for the fiscal year ending September 30, 2002. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 115. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical: *Provided*, That the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and said determination has been reviewed and approved by the District of Columbia Financial Responsibility and Management Assistance Authority.

SEC. 116. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided*, That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 117. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided*, That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by such Act.

SEC. 118. ACCEPTANCE AND USE OF GIFTS. (a) APPROVAL BY MAYOR.—

(1) IN GENERAL.—An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 2001 if—
(A) the Mayor approves the acceptance and use of the gift or donation (except as provided in paragraph (2)); and

(B) the entity uses the gift or donation to carry out its authorized functions or duties.

(2) EXCEPTION FOR COUNCIL AND COURTS.—The Council of the District of Columbia and the District of Columbia courts may accept and use gifts without prior approval by the Mayor.

(b) RECORDS AND PUBLIC INSPECTION.—Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a), and shall make such records available for audit and public inspection.

(c) INDEPENDENT AGENCIES INCLUDED.—For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) EXCEPTION FOR BOARD OF EDUCATION.—This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 119. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3-171; D.C. Code, sec. 1-113(d)).

SEC. 120. (a) MODIFICATION OF CONTRACTING REQUIREMENTS.—

(1) CONTRACTS SUBJECT TO NOTICE REQUIREMENTS.—Section 2204(c)(1)(A) of the District of Columbia School Reform Act (sec. 31-2853.14(c)(1)(A), D.C. Code) is amended to read as follows:

"(A) NOTICE REQUIREMENT FOR PROCUREMENT CONTRACTS.—

"(i) IN GENERAL.—Except in the case of an emergency (as determined by the eligible chartering authority of a public charter school), with respect to any procurement contract proposed to be awarded by the public charter school and having a value equal to or exceeding \$25,000, the school shall publish a notice of a request for proposals in the District of Columbia Register and newspapers of general circulation not less than 7 days prior to the award of the contract.

"(ii) EXCEPTION FOR CERTAIN CONTRACTS.—The notice requirement of clause (i) shall not apply with respect to any contract for the lease or purchase of real property by a public charter school, any employment contract for a staff member of a public charter school, or any management contract entered into by a public charter school and the management company designated in its charter or its petition for a revised charter."

(2) SUBMISSION OF CONTRACTS TO ELIGIBLE CHARTERING AUTHORITY.—Section 2204(c)(1)(B) of such Act (sec. 31-2853.14(c)(1)(B), D.C. Code) is amended—

(A) in the heading, by striking "AUTHORITY" and inserting "ELIGIBLE CHARTERING AUTHORITY";

(B) in clause (i), by striking "Authority" and inserting "eligible chartering authority"; and

(C) by amending clause (ii) to read as follows:

"(ii) EFFECTIVE DATE OF CONTRACT.—A contract described in subparagraph (A) shall become effective on the date that is 10 days after the date the school makes the submission under clause (i) with respect to the contract, or the effective date specified in the contract, whichever is later."

(b) CLARIFICATION OF APPLICATION OF SCHOOL REFORM ACT.—

(1) WAIVER OF DUPLICATE AND CONFLICTING PROVISIONS.—Section 2210 of such Act (sec.

31-2853.20, D.C. Code) is amended by adding at the end the following new subsection:

“(d) WAIVER OF APPLICATION OF DUPLICATE AND CONFLICTING PROVISIONS.—Notwithstanding any other provision of law, and except as otherwise provided in this title, no provision of any law regarding the establishment, administration, or operation of public charter schools in the District of Columbia shall apply with respect to a public charter school or an eligible chartering authority to the extent that the provision duplicates or is inconsistent with any provision of this title.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of the District of Columbia School Reform Act of 1995.

(c) LICENSING REQUIREMENTS FOR PRESCHOOL OR PREKINDERGARTEN PROGRAMS.—

(1) IN GENERAL.—Section 2204(c) of such Act (sec. 31-2853.14(c), D.C. Code) is amended by adding at the end the following new paragraph:

“(18) LICENSING AS CHILD DEVELOPMENT CENTER.—A public charter school which offers a preschool or prekindergarten program shall be subject to the same child care licensing requirements (if any) which apply to a District of Columbia public school which offers such a program.”.

(2) CONFORMING AMENDMENTS.—(A) Section 2202 of such Act (sec. 31-2853.12, D.C. Code) is amended by striking clause (17).

(B) Section 2203(h)(2) of such Act (sec. 31-2853.13(h)(2), D.C. Code) is amended by striking “(17).”.

(d) Section 2403 of the District of Columbia School Reform Act of 1995 (sec. 31-2853.43, D.C. Code) is amended by adding at the end the following new subsection:

“(c) ASSIGNMENT OF PAYMENTS.—A public charter school may assign any payments made to the school under this section to a financial institution for use as collateral to secure a loan or for the repayment of a loan.”.

(e) Section 2210 of the District of Columbia School Reform Act of 1995 (sec. 31-2853.20, D.C. Code), as amended by subsection (b), is further amended by adding at the end the following new subsection:

“(e) PARTICIPATION IN GSA PROGRAMS.—

“(1) IN GENERAL.—Notwithstanding any provision of this Act or any other provision of law, a public charter school may acquire goods and services through the General Services Administration and may participate in programs of the Administration in the same manner and to the same extent as any entity of the District of Columbia government.

“(2) PARTICIPATION BY CERTAIN ORGANIZATIONS.—A public charter school may delegate to a nonprofit, tax-exempt organization in the District of Columbia the public charter school's authority under paragraph (1).”.

SEC. 121. REPORTING REQUIREMENTS FOR THE DISTRICT OF COLUMBIA PUBLIC SCHOOLS AND THE UNIVERSITY OF THE DISTRICT OF COLUMBIA. (a) The Superintendent of the District of Columbia Public Schools (DCPS) and the University of the District of Columbia (UDC) shall each submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate no later than 15 calendar days after the end of each quarter a report that sets forth—

(1) current quarter expenditures and obligations, year-to-date expenditures and obligations, and total fiscal year expenditure projections versus budget broken out on the basis of control center, responsibility center, and object class, and for all funds, non-appropriated funds, and capital financing;

(2) a list of each account for which spending is frozen and the amount of funds frozen,

broken out by control center, responsibility center, detailed object, and for all funding sources;

(3) a list of all active contracts in excess of \$10,000 annually, which contains the name of each contractor; the budget to which the contract is charged, broken out on the basis of control center, responsibility center, and agency reporting code; and contract identifying codes used by DCPS and UDC; payments made in the last quarter and year-to-date, the total amount of the contract and total payments made for the contract and any modifications, extensions, renewals; and specific modifications made to each contract in the last month;

(4) all reprogramming requests and reports that are required to be, and have been, submitted to the Board of Education;

(5) all reprogramming requests and reports that have been made by UDC within the last quarter in compliance with applicable law; and

(6) changes made in the last quarter to the organizational structure of DCPS and UDC, displaying for each entity previous and current control centers and responsibility centers, the names of the organizational entities that have been changed, the name of the staff member supervising each entity affected, and the reasons for the structural change.

(b) The Superintendent of DCPS and UDC shall annually compile an accurate and verifiable report on the positions and employees in the public school system and the university, respectively. The annual report shall—

(1) set forth the number of validated schedule A positions in the District of Columbia public schools and UDC for fiscal year 2001, and thereafter on full-time equivalent basis, including a compilation of all positions by control center, responsibility center, funding source, position type, position title, pay plan, grade, and annual salary;

(2) set forth a compilation of all employees in the District of Columbia public schools and UDC as of the preceding December 31, verified as to its accuracy in accordance with the functions that each employee actually performs, by control center, responsibility center, agency reporting code, program (including funding source), activity, location for accounting purposes, job title, grade and classification, annual salary, and position control number; and

(3) be submitted to the Congress, the Mayor, the District of Columbia Council, the Consensus Commission, and the Authority, not later than February 15 of each year.

(c) No later than November 1, 2000, or within 30 calendar days after the date of the enactment of this Act, whichever occurs later, and each succeeding year, the Superintendent of DCPS and UDC shall submit to the appropriate congressional committees, the Mayor, the District of Columbia Council, the Consensus Commission, and the District of Columbia Financial Responsibility and Management Assistance Authority, a revised appropriated funds operating budget for the public school system and UDC for such fiscal year: (1) that is in the total amount of the approved appropriation and that realigns budgeted data for personal services and other-than-personal services, respectively, with anticipated actual expenditures; and (2) that is in the format of the budget that the Superintendent of DCPS and UDC submit to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia pursuant to section 442 of the District of Columbia Home Rule Act (Public Law 93-198; D.C. Code, sec. 47-301).

SEC. 122. (a) None of the funds contained in this Act may be made available to pay the

fees of an attorney who represents a party who prevails in an action or any attorney who defends any action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) if—

(1) the hourly rate of compensation of the attorney exceeds 250 percent of the hourly rate of compensation under section 11-2604(a), District of Columbia Code; or

(2) the maximum amount of compensation of the attorney exceeds 250 percent of the maximum amount of compensation under section 11-2604(b)(1), District of Columbia Code, except that compensation and reimbursement in excess of such maximum may be approved for extended or complex representation in accordance with section 11-2604(c), District of Columbia Code; and

(3) in no case may the compensation limits in paragraphs (1) and (2) exceed \$2,500.

(b) Notwithstanding the preceding subsection, if the Mayor and the Superintendent of the District of Columbia Public Schools concur in a Memorandum of Understanding setting forth a new rate and amount of compensation, then such new rates shall apply in lieu of the rates set forth in the preceding subsection to both the attorney who represents the prevailing party and the attorney who defends the action.

SEC. 123. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 124. None of the funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9-114; D.C. Code, sec. 36-1401 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples (whether homosexual, heterosexual, or lesbian), including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 125. The District of Columbia Financial Responsibility and Management Assistance Authority, acting on behalf of the District of Columbia Public Schools (DCPS) in formulating the DCPS budget, the Board of Trustees of the University of the District of Columbia, the Board of Library Trustees, and the Board of Governors of the University of the District of Columbia School of Law shall vote on and approve the respective annual or revised budgets for such entities before submission to the Mayor of the District of Columbia for inclusion in the Mayor's budget submission to the Council of the District of Columbia in accordance with section 442 of the District of Columbia Home Rule Act (Public Law 93-198; D.C. Code, sec. 47-301), or before submitting their respective budgets directly to the Council.

SEC. 126. (a) ACCEPTANCE AND USE OF GRANTS NOT INCLUDED IN CEILING.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer, during a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Public Law 104-8; 109 Stat. 152), may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(2) REQUIREMENT OF CHIEF FINANCIAL OFFICER REPORT AND AUTHORITY APPROVAL.—No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to paragraph (1) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Authority a report setting forth detailed information regarding such grant; and

(B) the Authority has reviewed and approved the acceptance, obligation, and expenditure of such grant in accordance with review and approval procedures consistent with the provisions of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

(3) PROHIBITION ON SPENDING IN ANTICIPATION OF APPROVAL OR RECEIPT.—No amount may be obligated or expended from the general fund or other funds of the District government in anticipation of the approval or receipt of a grant under paragraph (2)(B) of this subsection or in anticipation of the approval or receipt of a Federal, private, or other grant not subject to such paragraph.

(4) QUARTERLY REPORTS.—The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this subsection. Each such report shall be submitted to the Council of the District of Columbia, and to the Committees on Appropriations of the House of Representatives and the Senate, not later than 15 days after the end of the quarter covered by the report.

(b) REPORT ON EXPENDITURES BY FINANCIAL RESPONSIBILITY AND MANAGEMENT ASSISTANCE AUTHORITY.—Not later than 20 calendar days after the end of each fiscal quarter starting October 1, 2000, the Authority shall submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Government Reform of the House, and the Committee on Governmental Affairs of the Senate providing an itemized accounting of all non-appropriated funds obligated or expended by the Authority for the quarter. The report shall include information on the date, amount, purpose, and vendor name, and a description of the services or goods provided with respect to the expenditures of such funds.

SEC. 127. If a department or agency of the government of the District of Columbia is under the administration of a court-appointed receiver or other court-appointed official during fiscal year 2001 or any succeeding fiscal year, the receiver or official shall prepare and submit to the Mayor, for inclusion in the annual budget of the District of Columbia for the year, annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the department or agency. All such estimates shall be forwarded by the Mayor to the Council, for its action pursuant to sections 446 and 603(c) of the District of Columbia Home Rule Act, without revision but subject to the Mayor's recommendations. Notwithstanding any provision of the District of Columbia Home Rule Act (87 Stat. 774; Public Law 93-198), the Council may comment or make recommendations concerning such annual estimates but shall have no authority under such Act to revise such estimates.

SEC. 128. (a) RESTRICTIONS ON USE OF OFFICIAL VEHICLES.—Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace (except: (1) in the case of an officer or employee of the Metropolitan Police Department who resides in the Dis-

trict of Columbia or is otherwise designated by the Chief of the Department; (2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day; (3) the Mayor of the District of Columbia; and (4) the Chairman of the Council of the District of Columbia).

(b) INVENTORY OF VEHICLES.—The Chief Financial Officer of the District of Columbia shall submit, by November 15, 2000, an inventory, as of September 30, 2000, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 129. (a) SOURCE OF PAYMENT FOR EMPLOYEES DETAILED WITHIN GOVERNMENT.—For purposes of determining the amount of funds expended by any entity within the District of Columbia government during fiscal year 2001 and each succeeding fiscal year, any expenditures of the District government attributable to any officer or employee of the District government who provides services which are within the authority and jurisdiction of the entity (including any portion of the compensation paid to the officer or employee attributable to the time spent in providing such services) shall be treated as expenditures made from the entity's budget, without regard to whether the officer or employee is assigned to the entity or otherwise treated as an officer or employee of the entity.

(b) MODIFICATION OF REDUCTION IN FORCE PROCEDURES.—Section 2408 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-625.7), is amended as follows:

(1) Subsection (a) is amended by striking "September 30, 2000" and inserting "September 30, 2000, and each subsequent fiscal year".

(2) Subsection (b) is amended by striking "Prior to February 1, 2000" and inserting "Prior to February 1 of each year".

(3) Subsection (i) is amended by striking "March 1, 2000" and inserting "March 1 of each year".

(4) Subsection (k) is amended by striking "September 1, 2000" and inserting "September 1 of each year".

(c) No officer or employee of the District of Columbia government (including any independent agency of the District but excluding the District of Columbia Financial Responsibility and Management Assistance Authority, the Metropolitan Police Department, and the Office of the Chief Technology Officer) may enter into an agreement in excess of \$2,500 for the procurement of goods or services on behalf of any entity of the District government until the officer or employee has conducted an analysis of how the procurement of the goods and services involved under the applicable regulations and procedures of the District government would differ from the procurement of the goods and services involved under the Federal supply schedule and other applicable regulations and procedures of the General Services Administration, including an analysis of any differences in the costs to be incurred and the time required to obtain the goods or services.

SEC. 130. Notwithstanding any other provision of law, not later than 120 days after the date that a District of Columbia Public

Schools (DCPS) student is referred for evaluation or assessment—

(1) the District of Columbia Board of Education, or its successor, and DCPS shall assess or evaluate a student who may have a disability and who may require special education services; and

(2) if a student is classified as having a disability, as defined in section 101(a)(1) of the Individuals with Disabilities Education Act (84 Stat. 175; 20 U.S.C. 1401(a)(1)) or in section 7(8) of the Rehabilitation Act of 1973 (87 Stat. 359; 29 U.S.C. 706(8)), the Board and DCPS shall place that student in an appropriate program of special education services.

SEC. 131. (a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available in this Act may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a-10c).

(b) SENSE OF THE CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products to the greatest extent practicable.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available in this Act, the head of each agency of the Federal or District of Columbia government shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 132. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government (including the District of Columbia Financial Responsibility and Management Assistance Authority) for fiscal year 2001 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Code, sec. 1-1182.8(a)(4)); and

(2) the audit includes a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year.

SEC. 133. None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

SEC. 134. None of the funds contained in this Act may be used to transfer or confine inmates classified above the medium security level, as defined by the Federal Bureau of Prisons classification instrument, to the Northeast Ohio Correctional Center located in Youngstown, Ohio.

SEC. 135. Subsection 3(e) of Public Law 104-21 (D.C. Code sec. 7-134.2(e)) is amended to read as follows:

“(e) INSPECTOR GENERAL AUDIT.—Not later than February 1, 2001, and each February 1 thereafter, the Inspector General of the District of Columbia shall audit the financial statements of the District of Columbia Highway Trust Fund for the preceding fiscal year and shall submit to Congress a report on the results of such audit. Not later than May 31, 2001, and each May 31 thereafter, the Inspector General shall examine the statements forecasting the conditions and operations of the Trust Fund for the next five fiscal years commencing on the previous October 1 and shall submit to Congress a report on the results of such examination.”

SEC. 136. No later than November 1, 2000, or within 30 calendar days after the date of the enactment of this Act, whichever occurs later, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the District of Columbia Financial Responsibility and Management Assistance Authority a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (Public Law 93-198; D.C. Code, sec. 47-301), for all agencies of the District of Columbia government for such fiscal year that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

SEC. 137. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 138. (a) RESTRICTIONS ON LEASES.—Upon the expiration of the 60-day period that begins on the date of the enactment of this Act, none of the funds contained in this Act may be used to make rental payments under a lease for the use of real property by the District of Columbia government (including any independent agency of the District) unless the lease and an abstract of the lease have been filed (by the District of Columbia or any other party to the lease) with the central office of the Deputy Mayor for Economic Development, in an indexed registry available for public inspection.

(b) ADDITIONAL RESTRICTIONS ON CURRENT LEASES.—

(1) IN GENERAL.—Upon the expiration of the 60-day period that begins on the date of the enactment of this Act, in the case of a lease described in paragraph (3), none of the funds contained in this Act may be used to make rental payments under the lease unless the lease is included in periodic reports submitted by the Mayor and Council of the District of Columbia to the Committees on Appropriations of the House of Representatives and Senate describing for each such lease the following information:

(A) The location of the property involved, the name of the owners of record according to the land records of the District of Columbia, the name of the lessors according to the lease, the rate of payment under the lease, the period of time covered by the lease, and the conditions under which the lease may be terminated.

(B) The extent to which the property is or is not occupied by the District of Columbia government as of the end of the reporting period involved.

(C) If the property is not occupied and utilized by the District government as of the end of the reporting period involved, a plan for occupying and utilizing the property (including construction or renovation work) or a status statement regarding any efforts by the District to terminate or renegotiate the lease.

(2) TIMING OF REPORTS.—The reports described in paragraph (1) shall be submitted for each calendar quarter (beginning with the quarter ending December 31, 2000) not later than 20 days after the end of the quarter involved, plus an initial report submitted not later than 60 days after the date of the enactment of this Act, which shall provide information as of the date of the enactment of this Act.

(3) LEASES DESCRIBED.—A lease described in this paragraph is a lease in effect as of the date of the enactment of this Act for the use of real property by the District of Columbia government (including any independent agency of the District) which is not being occupied by the District government (including any independent agency of the District) as of such date or during the 60-day period which begins on the date of the enactment of this Act.

SEC. 139. (a) MANAGEMENT OF EXISTING DISTRICT GOVERNMENT PROPERTY.—Upon the expiration of the 60-day period that begins on the date of the enactment of this Act, none of the funds contained in this Act may be used to enter into a lease (or to make rental payments under such a lease) for the use of real property by the District of Columbia government (including any independent agency of the District) or to purchase real property for the use of the District of Columbia government (including any independent agency of the District) or to manage real property for the use of the District of Columbia (including any independent agency of the District) unless the following conditions are met:

(1) The Mayor and Council of the District of Columbia certify to the Committees on Appropriations of the House of Representatives and Senate that existing real property available to the District (whether leased or owned by the District government) is not suitable for the purposes intended.

(2) Notwithstanding any other provisions of law, there is made available for sale or lease all real property of the District of Columbia that the Mayor from time-to-time determines is surplus to the needs of the District of Columbia, unless a majority of the members of the Council override the Mayor's determination during the 30-day period which begins on the date the determination is published.

(3) The Mayor and Council implement a program for the periodic survey of all District property to determine if it is surplus to the needs of the District.

(4) The Mayor and Council within 60 days of the date of the enactment of this Act have filed with the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate a report which provides a comprehensive plan for the management of District of Columbia real property assets, and are proceeding with the implementation of the plan.

(b) TERMINATION OF PROVISIONS.—If the District of Columbia enacts legislation to reform the practices and procedures governing the entering into of leases for the use of real property by the District of Columbia government and the disposition of surplus real property of the District government, the provisions of subsection (a) shall cease to be effective upon the effective date of the legislation.

SEC. 140. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including the District of Columbia Financial Responsibility and Management Assistance Authority and any independent agency of the District) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted, and the District's Chief Financial Officer shall provide to the Committees on Appropriations of the Senate and the House of Representatives by the 10th day after the end of each quarter a summary list showing each report, the due date and the date submitted to the Committees.

SEC. 141. The proposed budget of the government of the District of Columbia for fiscal year 2002 that is submitted by the District to Congress shall specify potential adjustments that might become necessary in the event that the operational improvements savings, including managed competition, and management reform savings achieved by the District during the year do not meet the level of management savings projected by the District under the proposed budget.

SEC. 142. In submitting any document showing the budget for an office of the District of Columbia government (including an independent agency of the District) that contains a category of activities labeled as “other”, “miscellaneous”, or a similar general, nondescriptive term, the document shall include a description of the types of activities covered in the category and a detailed breakdown of the amount allocated for each such activity.

SEC. 143. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 144. Notwithstanding any other provision of law, the Mayor of the District of Columbia is hereby solely authorized to allocate the District's limitation amount of qualified zone academy bonds (established pursuant to 26 U.S.C. 1397E) among qualified zone academies within the District.

SEC. 145. (a) Section 11232 of the Balanced Budget Act of 1997 (sec. 24-1232, D.C. Code) is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j); and

(2) by inserting after subsection (e) the following new subsection:

“(f) TREATMENT AS FEDERAL EMPLOYEES.—

“(1) IN GENERAL.—The Trustee and employees of the Trustee who are not covered under subsection (e) shall be treated as employees of the Federal Government solely for purposes of the following provisions of title 5, United States Code:

“(A) Chapter 83 (relating to retirement).

“(B) Chapter 84 (relating to the Federal Employees' Retirement System).

“(C) Chapter 87 (relating to life insurance).

“(D) Chapter 89 (relating to health insurance).

“(2) EFFECTIVE DATES OF COVERAGE.—The effective dates of coverage of the provisions of paragraph (1) are as follows:

“(A) In the case of the Trustee and employees of the Office of the Trustee and the Office of Adult Probation, August 5, 1997, or the date of appointment, whichever is later.

“(B) In the case of employees of the Office of Parole, October 11, 1998, or the date of appointment, whichever is later.

“(C) In the case of employees of the Pretrial Services Agency, January 3, 1999, or the date of appointment, whichever is later.

“(3) RATE OF CONTRIBUTIONS.—The Trustee shall make contributions under the provisions referred to in paragraph (1) at the same rates applicable to agencies of the Federal Government.

“(4) REGULATIONS.—The Office of Personnel Management shall issue such regulations as are necessary to carry out this subsection.”.

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of title XI of the Balanced Budget Act of 1997.

SEC. 146. It is the sense of the Congress that the District of Columbia Financial Responsibility and Management Assistance Authority should quickly complete the sale of the Franklin School property, a property which has been vacant for over 20 years.

SEC. 147. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a “conscience clause” which provides exceptions for religious beliefs and moral convictions.

SEC. 148. (a) Chapter 23 of title 11, District of Columbia, is hereby repealed.

(b) The table of chapters for title 11, District of Columbia, is amended by striking the item relating to chapter 23.

(c) The amendments made by this section shall take effect on the date on which legislation enacted by the Council of the District of Columbia to establish the Office of the Chief Medical Examiner in the executive branch of the government of the District of Columbia takes effect.

PROMPT PAYMENT OF APPOINTED COUNSEL

SEC. 149. (a) ASSESSMENT OF INTEREST FOR DELAYED PAYMENTS.—If the Superior Court of the District of Columbia or the District of Columbia Court of Appeals does not make a payment described in subsection (b) prior to the expiration of the 45-day period which begins on the date the Court receives a completed voucher for a claim for the payment, interest shall be assessed against the amount of the payment which would otherwise be made to take into account the period which begins on the day after the expiration of such 45-day period and which ends on the day the Court makes the payment.

(b) PAYMENTS DESCRIBED.—A payment described in this subsection is—

(1) a payment authorized under section 11-2604 and section 11-2605, D.C. Code (relating to representation provided under the District of Columbia Criminal Justice Act);

(2) a payment for counsel appointed in proceedings in the Family Division of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Code; or

(3) a payment for counsel authorized under section 21-2060, D.C. Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986).

(c) STANDARDS FOR SUBMISSION OF COMPLETED VOUCHERS.—The chief judges of the Superior Court of the District of Columbia and the District of Columbia Court of Ap-

peals shall establish standards and criteria for determining whether vouchers submitted for claims for payments described in subsection (b) are complete, and shall publish and make such standards and criteria available to attorneys who practice before such Courts.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require the assessment of interest against any claim (or portion of any claim) which is denied by the Court involved.

(e) EFFECTIVE DATE.—This section shall apply with respect to claims received by the Superior Court of the District of Columbia or the District of Columbia Court of Appeals after the expiration of the 90-day period which begins on the date of the enactment of this Act.

SEC. 150. (a) Effective 120 days after the date of the enactment of this Act, it shall be unlawful for any person to distribute any needle or syringe for the hypodermic injection of any illegal drug in any area of the District of Columbia which is within 1000 feet of a public or private elementary or secondary school (including a public charter school). It is stipulated that based on a survey by the Metropolitan Police Department of the District of Columbia that sites at 4th Street Northeast and Rhode Island Avenue Northeast, Southern Avenue Southeast and Central Avenue Southeast, 1st Street Southeast and M Street Southeast, 21st Street Northeast and H Street Northeast, Minnesota Avenue Northeast and Clay Place Northeast, and 15th Street Southeast and Ives Street Southeast are outside the 1000-foot perimeter. Sites at North Capitol Street and New York Avenue Northeast, Division Avenue Northeast and Foote Street Northeast, Georgia Avenue Northwest and New Hampshire Avenue Northwest, and 15th Street Northeast and A Street Northeast are found to be within the 1000-foot perimeter.

(b) The Public Housing Police of the District of Columbia Housing Authority shall prepare a monthly report on activity involving illegal drugs at or near any public housing site where a needle exchange program is conducted, and shall submit such reports to the Executive Director of the District of Columbia Housing Authority, who shall submit them to the Committees on Appropriations of the House of Representatives and Senate. The Executive Director shall ascertain any concerns of the residents of any public housing site about any needle exchange program conducted on or near the site, and this information shall be included in these reports. The District of Columbia Government shall take appropriate action to require relocation of any such program if so recommended by the police or by a significant number of residents of such site.

FEDERAL CONTRIBUTION FOR ENFORCEMENT OF LAW BANNING POSSESSION OF TOBACCO PRODUCTS BY MINORS

SEC. 151. (a) CONTRIBUTION.—There is hereby appropriated a Federal contribution of \$100,000 to the Metropolitan Police Department of the District of Columbia, effective upon the enactment by the District of Columbia of a law which reads as follows:

“SECTION 1. BAN ON POSSESSION OF TOBACCO PRODUCTS BY MINORS.

“(a) IN GENERAL.—It shall be unlawful for any individual under 18 years of age to possess any cigarette or other tobacco product in the District of Columbia.

“(b) EXCEPTIONS.—

“(1) POSSESSION IN COURSE OF EMPLOYMENT.—Subsection (a) shall not apply with respect to an individual making a delivery of cigarettes or tobacco products in pursuance of employment.

“(2) PARTICIPATION IN LAW ENFORCEMENT OPERATION.—Subsection (a) shall not apply

with respect to an individual possessing products in the course of a valid, supervised law enforcement operation.

“(c) PENALTIES.—Any individual who violates subsection (a) shall be subject to the following penalties:

“(1) For any violation, the individual may be required to perform community service or attend a tobacco cessation program.

“(2) Upon the first violation, the individual shall be subject to a civil penalty not to exceed \$50.

“(3) Upon the second and each subsequent violation, the individual shall be subject to a civil penalty not to exceed \$100.

“(4) Upon the third and each subsequent violation, the individual may have his or her driving privileges in the District of Columbia suspended for a period of 90 consecutive days.”.

(b) USE OF CONTRIBUTION.—The Metropolitan Police Department shall use the contribution made under subsection (a) to enforce the law referred to in such subsection.

SEC. 152. Nothing in this Act bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 153. (a) Nothing in the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301 et seq.) may be construed to prohibit the Administrator of the Environmental Protection Agency from negotiating and entering into cooperative agreements and grants authorized by law which affect real property of the Federal Government in the District of Columbia if the principal purpose of the cooperative agreement or grant is to provide comparable benefits for Federal and non-Federal properties in the District of Columbia.

(b) Subsection (a) shall apply with respect to fiscal year 2001 and each succeeding fiscal year.

SEC. 154. (a) IN GENERAL.—The District of Columbia Home Rule Act, as amended by section 159(a) of this Act, is further amended by inserting after section 450A the following new section:

“COMPREHENSIVE FINANCIAL MANAGEMENT POLICY

“SEC. 450B. (a) COMPREHENSIVE FINANCIAL MANAGEMENT POLICY.—The District of Columbia shall conduct its financial management in accordance with a comprehensive financial management policy.

“(b) CONTENTS OF POLICY.—The comprehensive financial management policy shall include, but not be limited to, the following:

“(1) A cash management policy.

“(2) A debt management policy.

“(3) A financial asset management policy.

“(4) An emergency reserve management policy in accordance with section 450A(a).

“(5) A contingency reserve management policy in accordance with section 450A(b).

“(6) A policy for determining real property tax exemptions for the District of Columbia.

“(c) ANNUAL REVIEW.—The comprehensive financial management policy shall be reviewed at the end of each fiscal year by the Chief Financial Officer who shall—

“(1) not later than July 1 of each year, submit any proposed changes in the policy to the Mayor and (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) the District of Columbia Financial Responsibility and Management Assistance Authority (Authority) for review;

“(2) not later than August 1 of each year, after consideration of any comments received under paragraph (1), submit the changes to the Council of the District of Columbia (Council) for approval; and

“(3) not later than September 1 of each year, notify the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate of any changes enacted by the Council.

“(d) PROCEDURE FOR DEVELOPMENT OF FIRST COMPREHENSIVE FINANCIAL MANAGEMENT POLICY.—

“(1) CHIEF FINANCIAL OFFICER.—Not later than April 1, 2001, the Chief Financial Officer shall submit to the Mayor an initial proposed comprehensive financial management policy for the District of Columbia pursuant to this section.

“(2) COUNCIL.—Following review and comment by the Mayor, not later than May 1, 2001, the Chief Financial Officer shall submit the proposed financial management policy to the Council for its prompt review and adoption.

“(3) AUTHORITY.—Upon adoption of the financial management policy under paragraph (2), the Council shall immediately submit the policy to the Authority for a review of not to exceed 30 days.

“(4) CONGRESS.—Following review of the financial management policy by the Authority under paragraph (3), the Authority shall submit the policy to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate for review, and the policy shall take effect 30 days after the date the policy is submitted under this paragraph.”

(b) CLERICAL AMENDMENT.—The table of contents for the District of Columbia Home Rule Act is amended by inserting after the item relating to section 450A the following new item:

“Sec. 450B. Comprehensive financial management policy.”

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2000.

APPOINTMENT AND DUTIES OF CHIEF FINANCIAL OFFICER

SEC. 155. (a) APPOINTMENT AND DISMISSAL.—Section 424(b) of the District of Columbia Home Rule Act (sec. 47-317.2, D.C. Code) is amended—

(1) in paragraph (1)(B), by adding at the end the following: “Upon confirmation by the Council, the name of the Chief Financial Officer shall be submitted to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives for a 30-day period of review and comment before the appointment takes effect.”; and

(2) in paragraph (2)(B), by striking the period at the end and inserting the following: “upon dismissal by the Mayor and approval of that dismissal by a 2/3 vote of the Council. Upon approval of the dismissal by the Council, notice of the dismissal shall be submitted to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives for a 30-day period of review and comment before the dismissal takes effect.”

(b) FUNCTIONS.—

(1) IN GENERAL.—Section 424(c) of such Act (sec. 47-317.3, D.C. Code) is amended—

(A) in the heading, by striking “DURING A CONTROL YEAR”;

(B) in the matter preceding paragraph (1), by striking “During a control year, the Chief Financial Officer” and inserting “The Chief Financial Officer”;

(C) in paragraph (1), by striking “Preparing” and inserting “During a control year, preparing”;

(D) in paragraph (3), by striking “Assuring” and inserting “During a control year, assuring”;

(E) in paragraph (5), by striking “With the approval” and all that follows through “the Council—” and inserting “Preparing and submitting to the Mayor and the Council, with the approval of the Authority during a control year—”;

(F) in paragraph (11), by striking “or the Authority” and inserting “(or by the Authority during a control year)”; and

(G) by adding at the end the following new paragraphs:

“(18) Exercising responsibility for the administration and supervision of the District of Columbia Treasurer (except that the Chief Financial Officer may delegate any portion of such responsibility as the Chief Financial Officer considers appropriate and consistent with efficiency).

“(19) Administering all borrowing programs of the District government for the issuance of long-term and short-term indebtedness.

“(20) Administering the cash management program of the District government, including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts.

“(21) Administering the centralized District government payroll and retirement systems.

“(22) Governing the accounting policies and systems applicable to the District government.

“(23) Preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government.

“(24) Not later than 120 days after the end of each fiscal year, preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4).”

(2) CONFORMING AMENDMENTS.—Section 424 of such Act (sec. 47-317.1 et seq., D.C. Code) is amended—

(A) by striking subsection (d);

(B) in subsection (e)(2), by striking “or subsection (d)”; and

(C) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 156. (a) Notwithstanding the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2-139; D.C. Code 1-601.1 et seq.), or any other District of Columbia law, statute, regulation, the provisions of the District of Columbia Personnel Manual, or the provisions of any collective bargaining agreement, employees of the District of Columbia government will only receive compensation for overtime work in excess of 40 hours per week (or other applicable tour of duty) of work actually performed, in accordance with the provisions of the Fair Labor Standards Act, 29 U.S.C. §201 et seq.

(b) Subsection (a) of this section shall be effective December 27, 1996. The Resolution and Order of the District of Columbia Financial Responsibility and Management Assistance Authority, dated December 27, 1996, is hereby ratified and approved and shall be given full force and effect.

SEC. 157. (a) IN GENERAL.—Notwithstanding section 503 of Public Law 100-71 and as provided in subsection (b), the Court Services and Offender Supervision Agency for the District of Columbia (in this section referred to as the “agency”) may implement and administer the Drug Free Workplace Program of the agency, dated July 28, 2000, for employment applicants of the agency.

(b) EFFECTIVE PERIOD.—The waiver provided by subsection (a) shall—

(1) take effect on enactment; and

(2) terminate on the date the Department of Health and Human Services approves the drug program of the agency pursuant to section 503 of Public Law 100-71 or 12 months after the date referred to in paragraph (1), whichever is later.

SEC. 158. Commencing October 1, 2000, the Mayor of the District of Columbia shall submit to the Senate and House Committees on Appropriations, the Senate Governmental Affairs Committee, and the House Government Reform Committee quarterly reports addressing the following issues: (1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets; (2) access to drug abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs; (3) management of parolees and pretrial violent offenders, including the number of halfway house escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency; (4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools; (5) improvement in basic District services, including rat control and abatement; (6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but which the District failed to spend the amounts received; and (7) indicators of child well-being.

RESERVE FUNDS

SEC. 159. (a) ESTABLISHMENT OF RESERVE FUNDS.—

(1) IN GENERAL.—The District of Columbia Home Rule Act is amended by inserting after section 450 the following new section:

“RESERVE FUNDS

“SEC. 450A. (a) EMERGENCY RESERVE FUND.—

“(1) IN GENERAL.—There is established an emergency cash reserve fund (in this subsection referred to as the ‘emergency reserve fund’) as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall deposit in cash not later than February 15 of each fiscal year (or not later than October 1, 2000, in the case of fiscal year 2001) such amount as may be required to maintain a balance in the fund of at least 4 percent of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds (or, in the case of fiscal years prior to fiscal year 2004, such amount as may be required to maintain a balance in the fund of at least the minimum emergency reserve balance for such fiscal year, as determined under paragraph (2)).

“(2) DETERMINATION OF MINIMUM EMERGENCY RESERVE BALANCE.—

“(A) IN GENERAL.—The ‘minimum emergency reserve balance’ with respect to a fiscal year is the amount equal to the applicable percentage of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds.

“(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the ‘applicable percentage’ with respect to a fiscal year means the following:

“(i) For fiscal year 2001, 1 percent.

“(ii) For fiscal year 2002, 2 percent.

“(iii) For fiscal year 2003, 3 percent.

“(3) INTEREST.—Interest earned on the emergency reserve fund shall remain in the account and shall only be withdrawn in accordance with paragraph (4).

“(4) CRITERIA FOR USE OF AMOUNTS IN EMERGENCY RESERVE FUND.—The Chief Financial Officer, in consultation with the Mayor, shall develop a policy to govern the emergency reserve fund which shall include (but which may not be limited to) the following requirements:

“(A) The emergency reserve fund may be used to provide for unanticipated and non-recurring extraordinary needs of an emergency nature, including a natural disaster or calamity as defined by section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 100-707) or unexpected obligations by Federal law.

“(B) The emergency reserve fund may also be used in the event of a State of Emergency as declared by the Mayor pursuant to section 5 of the District of Columbia Public Emergency Act of 1980 (sec. 6-1504, D.C. Code).

“(C) The emergency reserve fund may not be used to fund—

“(i) any department, agency, or office of the Government of the District of Columbia which is administered by a receiver or other official appointed by a court;

“(ii) shortfalls in any projected reductions which are included in the budget proposed by the District of Columbia for the fiscal year; or

“(iii) settlements and judgments made by or against the Government of the District of Columbia.

“(5) ALLOCATION OF EMERGENCY CASH RESERVE FUNDS.—Funds may be allocated from the emergency reserve fund only after—

“(A) an analysis has been prepared by the Chief Financial Officer of the availability of other sources of funding to carry out the purposes of the allocation and the impact of such allocation on the balance and integrity of the emergency reserve fund; and

“(B) with respect to fiscal years beginning with fiscal year 2005, the contingency reserve fund established by subsection (b) has been projected by the Chief Financial Officer to be exhausted at the time of the allocation.

“(6) NOTICE.—The Mayor, the Council, and (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995) the District of Columbia Financial Responsibility and Management Assistance Authority shall notify the Committees on Appropriations of the Senate and House of Representatives in writing not more than 30 days after the expenditure of funds from the emergency reserve fund.

“(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal year by the following fiscal year. Once the emergency reserve equals 4 percent of total budget appropriated from local funds for operating expenditures for the fiscal year, the District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding year to maintain a balance of at least 4 percent of total funds appropriated from local funds for operating expenditures by the following fiscal year.

“(b) CONTINGENCY RESERVE FUND.—

“(1) IN GENERAL.—There is established a contingency cash reserve fund (in this subsection referred to as the ‘contingency reserve fund’) as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall deposit in

cash not later than October 1 of each fiscal year (beginning with fiscal year 2005) such amount as may be required to maintain a balance in the fund of at least 3 percent of the total budget appropriated for operating expenditures for such fiscal year which is derived from local funds (or, in the case of fiscal years prior to fiscal year 2007, such amount as may be required to maintain a balance in the fund of at least the minimum contingency reserve balance for such fiscal year, as determined under paragraph (2)).

“(2) DETERMINATION OF MINIMUM CONTINGENCY RESERVE BALANCE.—

“(A) IN GENERAL.—The ‘minimum contingency reserve balance’ with respect to a fiscal year is the amount equal to the applicable percentage of the total budget appropriated from local funds for operating expenditures for such fiscal year which is derived from local funds.

“(B) APPLICABLE PERCENTAGE DEFINED.—In subparagraph (A), the ‘applicable percentage’ with respect to a fiscal year means the following:

“(i) For fiscal year 2005, 1 percent.

“(ii) For fiscal year 2006, 2 percent.

“(3) INTEREST.—Interest earned on the contingency reserve fund shall remain in the account and may only be withdrawn in accordance with paragraph (4).

“(4) CRITERIA FOR USE OF AMOUNTS IN CONTINGENCY RESERVE FUND.—The Chief Financial Officer, in consultation with the Mayor, shall develop a policy governing the use of the contingency reserve fund which shall include (but which may not be limited to) the following requirements:

“(A) The contingency reserve fund may only be used to provide for nonrecurring or unforeseen needs that arise during the fiscal year, including expenses associated with unforeseen weather or other natural disasters, unexpected obligations created by Federal law or new public safety or health needs or requirements that have been identified after the budget process has occurred, or opportunities to achieve cost savings.

“(B) The contingency reserve fund may be used, if needed, to cover revenue shortfalls experienced by the District government for 3 consecutive months (based on a 2 month rolling average) that are 5 percent or more below the budget forecast.

“(C) The contingency reserve fund may not be used to fund any shortfalls in any projected reductions which are included in the budget proposed by the District of Columbia for the fiscal year.

“(5) ALLOCATION OF CONTINGENCY CASH RESERVE.—Funds may be allocated from the contingency reserve fund only after an analysis has been prepared by the Chief Financial Officer of the availability of other sources of funding to carry out the purposes of the allocation and the impact of such allocation on the balance and integrity of the contingency reserve fund.

“(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal year by the following fiscal year. Once the contingency reserve equals 3 percent of total funds appropriated from local funds for operating expenditures, the District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding year to maintain a balance of at least 3 percent of total funds appropriated from local funds for operating expenditures by the following fiscal year.

“(c) QUARTERLY REPORTS.—The Chief Financial Officer shall submit a quarterly report to the Mayor, the Council, the District

of Columbia Financial Responsibility and Management Assistance Authority (in the case of a fiscal year which is a control year, as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), and the Committees on Appropriations of the Senate and House of Representatives that includes a monthly statement on the balance and activities of the contingency and emergency reserve funds.”.

(2) CLERICAL AMENDMENT.—The table of contents for the District of Columbia Home Rule Act is amended by inserting after the item relating to section 450 the following new item:

“Sec. 450A. Reserve funds.”.

(b) CONFORMING AMENDMENTS.—

(1) CURRENT RESERVE FUND.—Section 202(j) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47-392.2(j), D.C. Code) is amended—

(A) in paragraph (1), by striking “Beginning with fiscal year 2000, the plan or budget submitted pursuant to this Act” and inserting “For each of the fiscal years 2000 through 2004, the budget of the District government for the fiscal year”; and

(B) by adding at the end the following new paragraph:

“(4) REPLENISHMENT.—Any amount of the reserve funds which is expended in one fiscal year shall be replenished in the reserve funds from the following fiscal year appropriations to maintain the \$150,000,000 balance.”.

(2) POSITIVE FUND BALANCE.—Section 202(k) of such Act (sec. 47-392.2(k), D.C. Code) is repealed.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 2000.

TREATMENT OF REVENUE BONDS SECURED BY TOBACCO SETTLEMENT PAYMENTS

SEC. 160. (a) PERMITTING COUNCIL TO DELEGATE AUTHORITY TO ISSUE BONDS.—

(1) IN GENERAL.—Section 490 of the District of Columbia Home Rule Act (sec. 47-334, D.C. Code) is amended—

(A) by redesignating subsections (i) through (m) as subsections (j) through (n); and

(B) by inserting after subsection (h) the following new subsection:

“(i)(1) The Council may delegate to the District of Columbia Tobacco Settlement Financing Corporation (hereafter in this subsection referred to as the “Corporation”) established pursuant to the Tobacco Settlement Financing Act of 2000 the authority of the Council under subsection (a) to issue revenue bonds, notes, and other obligations which are used to borrow money to finance or assist in the financing or refinancing of capital projects and other undertakings of the District of Columbia and which are payable solely from and secured by payments under the Master Tobacco Settlement Agreement. The Corporation may exercise authority delegated to it by the Council as described in the first sentence of this paragraph (whether such delegation is made before or after the date of the enactment of this subsection) only in accordance with this subsection and the provisions of the Tobacco Settlement Financing Act of 2000.

“(2) Revenue bonds, notes, and other obligations issued by the Corporation under a delegation of authority described in paragraph (1) shall be issued by resolution of the Corporation, and any such resolution shall not be considered to be an act of the Council.

“(3) The fourth sentence of section 446 shall not apply to—

“(A) any amount (including the amount of any accrued interest or premium) obligated or expended from the proceeds of the sale of

any revenue bond, note, or other obligation issued pursuant to this subsection;

“(B) any amount obligated or expended for the payment of the principal of, interest on, or any premium for any revenue bond, note, or other obligation issued pursuant to this subsection;

“(C) any amount obligated or expended to secure any revenue bond, note, or other obligation issued pursuant to this subsection; or

“(D) any amount obligated or expended for repair, maintenance, and capital improvements to facilities financed pursuant to this subsection.

“(4) In this subsection, the term ‘Master Tobacco Settlement Agreement’ means the settlement agreement (and related documents), as may be amended from time to time, entered into on November 23, 1998, by the District of Columbia and leading United States tobacco product manufacturers.”.

(2) CONFORMING AMENDMENT.—The fourth sentence of section 446 of such Act (sec. 47-304, D.C. Code) is amended by striking “and (h)(3)” and inserting “(h)(3), and (i)(3)”.

(b) WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR TOBACCO SETTLEMENT FINANCING ACT.—Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act (sec. 1-233(c)(1), D.C. Code), the Tobacco Settlement Financing Act of 2000 (title XXXVII of D.C. Act 13-375, as amended by section 8(e) of D.C. Act 13-387) shall take effect on the date of the enactment of such Act or the date of the enactment of this Act, whichever is later.

SEC. 161. Section 603(e) of the Student Loan Marketing Association Reorganization Act of 1996 (Public Law 104-208; 110 Stat. 3009-293), as amended by section 153 of the District of Columbia Appropriations Act, 2000, is amended—

(1) by amending the second sentence of paragraph (2)(B) to read as follows: “Of such amounts and proceeds, \$5,000,000 shall be set aside for a credit enhancement fund for public charter schools in the District of Columbia, to be administered and disbursed in accordance with paragraph (3).”; and

(2) by adding at the end the following new paragraph:

“(3) CREDIT ENHANCEMENT FUND FOR PUBLIC CHARTER SCHOOLS.—

“(A) DISTRIBUTION OF AMOUNTS.—Of the amounts in the credit enhancement fund established under paragraph (2)(B)—

“(i) 50 percent shall be used to make grants under subparagraph (B); and

“(ii) 50 percent shall be used to make grants under subparagraph (C).

“(B) GRANTS TO ELIGIBLE NONPROFIT CORPORATIONS.—

“(i) IN GENERAL.—Using the amounts described in subparagraph (A)(i), not later than 1 year after the date of the enactment of the District of Columbia Appropriations Act, 2001, the Mayor of the District of Columbia shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in subparagraph (E).

“(ii) ADMINISTRATION.—The Mayor shall administer the program of grants under this subparagraph, except that if the committee described in subparagraph (C)(iii) is in operation and is fully functional prior to the date the Mayor makes the grants, the Mayor may delegate the administration of the program to the committee.

“(C) OTHER GRANTS.—

“(i) IN GENERAL.—Using the amounts described in subparagraph (A)(ii), the Mayor of the District of Columbia shall make grants to entities to carry out the purposes described in subparagraph (E).

“(ii) PARTICIPATION OF SCHOOLS.—A public charter school in the District of Columbia may receive a grant under this subparagraph to carry out the purposes described in sub-

paragraph (E) in the same manner as other entities receiving grants to carry out such activities.

“(iii) ADMINISTRATION THROUGH COMMITTEE.—The Mayor shall carry out this subparagraph through the committee appointed by the Mayor under the second sentence of paragraph (2)(B) (as in effect prior to the enactment of the District of Columbia Appropriations Act, 2001). The committee may enter into an agreement with a third party to carry out its responsibilities under this subparagraph.

“(iv) CAP ON ADMINISTRATIVE COSTS.—Not more than 10% of the funds available for grants under this subparagraph may be used to cover the administrative costs of making grants under this subparagraph.

“(D) SPECIAL RULE REGARDING ELIGIBILITY OF NONPROFIT CORPORATIONS.—In order to be eligible to receive a grant under this paragraph, a nonprofit corporation must provide appropriate certification to the Mayor or to the committee described in subparagraph (C)(iii) (as the case may be) that it is duly authorized by two or more public charter schools in the District of Columbia to act on their behalf in obtaining financing (or in assisting them in obtaining financing) to cover the costs of activities described in subparagraph (E)(i).

“(E) PURPOSES OF GRANTS.—

“(i) IN GENERAL.—The recipient of a grant under this paragraph shall use the funds provided under the grant to carry out activities to assist public charter schools in the District of Columbia in—

“(I) obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;

“(II) obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs; and

“(III) enhancing the availability of loans (including mortgages) and bonds.

“(ii) NO DIRECT FUNDING FOR SCHOOLS.—Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.”.

SEC. 162. (a) EXCLUSIVE AUTHORITY OF MAYOR.—Notwithstanding section 451 of the District of Columbia Home Rule Act or any other provision of District of Columbia or Federal law to the contrary, the Mayor of the District of Columbia shall have the exclusive authority to approve and execute leases of the Washington Marina and the Washington municipal fish wharf with the existing lessees thereof for an initial term of 30 years, together with such other terms and conditions (including renewal options) as the Mayor deems appropriate.

(b) DEFINITIONS.—In this section—

(1) the term “Washington Marina” means the portions of Federal property in the Southwest quadrant of the District of Columbia within Lot 848 in Square 473, the unassessed Federal real property adjacent to Lot 848 in Square 473, and riparian rights appurtenant thereto; and

(2) the term “Washington municipal fish wharf” means the water frontage on the Potomac River lying south of Water Street between 11th and 12th Streets, including the buildings and wharves thereon.

SEC. 163. Section 11201(g)(4)(A) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Code, sec. 24-1201(g)(4)(A)) is amended—

(1) by redesignating clauses (vi) through (ix) as clauses (vii) through (x), respectively; and

(2) by inserting after clause (v) the following:

“(vi) immediately upon completing the remediation required under clause (ii) (but in no event later than June 1, 2003), transfer any property located south of Silverbrooke Road which is identified for use for educational purposes in the Fairfax County reuse plan to the County, without consideration, subject to the condition that the County use the property only for educational purposes;”.

SEC. 164. (a) Section 208(a) of the District of Columbia Procurement Practices Act of 1985 (sec. 1-1182.8(a), D.C. Code) is amended—

(1) in paragraph (4)(A), by striking “the same auditor)” and inserting “the same auditor, except as may be provided in paragraph (5); and

(2) by adding at the end the following new paragraph:

“(5) Notwithstanding paragraph (4)(A), an auditor who is a subcontractor to the auditor who audited the financial statement and report described in paragraph (3)(H) for a fiscal year may audit the financial statement and report for any succeeding fiscal year (as either the prime auditor or as a subcontractor to another auditor) if—

“(A) such subcontractor is not a signatory to the statement and report for the previous fiscal year;

“(B) the prime auditor reviewed and approved the work of the subcontractor on the statement and report for the previous fiscal year; and

“(C) the subcontractor is not an employee of the prime contractor or of an entity owned, managed, or controlled by the prime contractor.”.

(b) The amendment made by subsection (a) shall apply with respect to financial statements and reports for activities of the District of Columbia Government for fiscal years beginning with fiscal year 2001.

SEC. 165. Section 11201(g) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Code, sec. 24-1201(g)) is amended by adding at the end the following new paragraph:

“(6) MEADOWOOD FARM LAND EXCHANGE.—

“(A) IN GENERAL.—If, not later than January 15, 2001, Fairfax County, Virginia, agrees to convey fee simple title to the property on Mason Neck in excess of 800 acres depicted on the map dated June 2000, on file in the Office of the Director of the Bureau of Land Management, Eastern States (hereafter in this paragraph referred to as ‘Meadowood Farm’) to the Secretary of the Interior, then the Administrator of General Services shall agree to convey to Fairfax County, Virginia, fee simple title to the property located at the Lorton Correctional Complex north of Silverbrook Road, and consisting of more than 200 acres identified in the Fairfax County Reuse Plan, dated July 26, 1999, as land available for residential development in Land Units 1 and 2 (hereafter in this paragraph referred to as the ‘Laurel Hill Residential Land’), the actual exchange to occur no later than December 31, 2001.

“(B) TERMS AND CONDITIONS.—(i) When Fairfax County transfers fee simple title to Meadowood Farm to the Secretary of the Interior, the Administrator of General Services shall simultaneously transfer to the County the Laurel Hill Residential Land.

“(ii) The transfer of property to Fairfax County, Virginia, under clause (i) shall be subject to such terms and conditions that the Administrator of General Services considers to be appropriate to protect the interests of the United States.

“(iii) The transfer of property to Fairfax County, Virginia, under clause (i) shall be subject to such terms and conditions that the Administrator of General Services considers to be appropriate to protect the interests of the United States.

“(iii) Any proceeds derived from the sale of the Laurel Hill Residential Land by Fairfax County that exceed the County’s cost of acquiring, financing (which shall be deemed a County cost from the time of financing of the Meadowood Farm acquisition to the receipt of proceeds of the sale or sales of the Laurel Hill Residential Land until such time as the proceeds of such sale or sales exceed the acquisition and financing costs of Meadowood Farm to the County), preparing, and conveying Meadowood Farm and costs incurred for improving, preparing, and conveying the Laurel Hill Residential Land shall be remitted to the United States and deposited into the special fund established pursuant to paragraph (4)(A)(viii).

“(C) MANAGEMENT OF PROPERTY.—The property transferred to the Secretary of the Interior under this section shall be managed by the Bureau of Land Management for public use and recreation purposes.”.

SEC. 166. Section 158(b) of the District of Columbia Appropriations Act, 2000 (Public Law 106-113; 113 Stat. 1527) is amended to read as follows:

“(b) SOURCE OF FUNDS; TRANSFER.—An amount not to exceed \$5,000,000 from the National Highway System funds apportioned to the District of Columbia under section 104 of title 23, United States Code, may be used for purposes of carrying out the project under subsection (a).”.

SEC. 167. The explanatory language contained in the Joint Explanatory Statement of the Committee of Conference for District of Columbia Appropriations contained in the Conference Report to accompany H.R. 4942 of the 106th Congress shall be considered to constitute a joint explanatory statement of a committee of conference for the provisions in this Act. References in this joint statement to the conference agreement mean the provisions in this Act, references to the House bill mean the House passed version of H.R. 4942, and references to the Senate bill mean the Senate passed amendment to H.R. 4942.

This Act may be cited as the “District of Columbia Appropriations Act, 2001”.

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

Mr. MORAN of Virginia. Mr. Speaker, reserving the right to object, I would just like a statement from the gentleman from Oklahoma (Chairman ISTOOK) to make it clear for the record that there are no material changes to the bill as reported out by the conference in agreement with the Senate.

Mr. Speaker, I yield to the gentleman if he wants to give those assurances.

Mr. ISTOOK. Mr. Speaker, I thank the gentleman from Virginia for yielding to me.

This is identical to the conference report on the original D.C. appropriations bill for fiscal year 2001, H.R. 4942, with one technical exception, that exception is simply adding a new section, section 167 that makes the joint explanatory statement in the conference report on H.R. 4942 to apply to this new bill.

Mr. Speaker, that is the only difference, and it is just a technical one for the sake of a clear record.

Mr. MORAN of Virginia. Mr. Speaker, with that confirmation, I have no objection. I am glad to see this pass with unanimous consent of both parties.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 14, 2000.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 14, 2000 at 1:35 p.m.

That the Senate passed without amendment H.J. Res. 125

That the Senate passed without amendment H. Con. Res. 442

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled bills and joint resolution during the recess today:

H.R. 2346, to authorize the enforcement by State and local governments of certain Federal Communications Commission regulations regarding use of citizens band radio equipment.

H.R. 4986, to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income.

H.J. Res. 125, making further continuing appropriations for the fiscal year 2001, and for other purposes.

APPOINTMENT OF HON. FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH DECEMBER 4, 2000

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

WASHINGTON, DC,
November 14, 2000.

I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through December 4, 2000.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is agreed to.

There was no objection.

AUTHORIZING THE SPEAKER, MAJORITY LEADER, AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS, NOTWITHSTANDING ADJOURNMENT

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, December 4, 2000, the Speaker, majority leader and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, DECEMBER 6, 2000

Mr. MCCOLLUM. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, December 6, 2000.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. 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 gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO 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 Washington (Mr. METCALF) is recognized for 5 minutes.

(Mr. METCALF addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

A TRIBUTE TO THE LATE DAVID R. BROWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise this evening with deep respect, and with profound sadness in paying tribute to one of the greatest environmentalists of our time, Mr. David R. Brower, who passed away on Sunday, November 5, at his home in Berkeley, California.

Mr. Brower’s distinguished career of dedication and commitment to the preservation of our environment spanned more than fifty years.

As a young man, Dave Brower fell in love with our planet, which he called Earth Island.

He served as the executive director of the Sierra Club in 1952, and later, founded two important environmental organizations, the Friends of the Earth and the John Muir Institute for Environmental Studies.

In addition, in 1982, he founded Earth Island Institute, an organization that promotes protection and conservation of wilderness around the world.

During his lifetime, he led hard fought fights to establish numerous national parks and seashores, including Point Reyes in northern California, the Northern Cascades, and the California Redwoods.

Among these accomplishments, in the 1960's, Mr. Brower's activism was instrumental in preventing the construction of two major dams in the Grand Canyon.

He was also successful in stopping plans to build dams at the Green River in Utah that would have seriously altered the landscape of the Dinosaur National Monument.

Furthermore, Mr. Brower played a crucial role in the passage of the Wilderness Act of 1964, which preserved millions of acres of public land so that its natural conditions will remain for future generations to enjoy.

Mr. Brower's strong conviction and foresight did not come without personal sacrifice.

He took many hard stances for environmental protection that he believed would benefit humanity, sometimes against his colleagues, and many times against governmental agencies. And these sacrifices make Mr. Brower truly heroic.

The death of Mr. Brower is a great loss to our nation. I, along with Mr. Brower's immediate family, friends, admirers and supporters, feel this monumental loss.

But as we mourn his death, we also remember the legacy of hope and inspiration David left behind for us as a true leader in conservation.

His passion for preserving our planet's remaining wilderness, our national parks, and seashores is a remarkable model of how one person can mobilize people's consciousness to change and to better our lives and our world.

I cannot fully express enough gratitude for the contributions David Brower has made to our society and to the viability of our planet, but I can say that he literally changed the world for the better.

Mr. Speaker, I would like to extend my deepest condolences to the late Mr. Brower's wife Anne, his four children Kenneth, Robert, Barbara, and John, his grandchildren, his friends, and supporters throughout the world.

To Mr. Brower—May the Earth receive you with the love and compassion that you gave it, and may God Bless You.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

(Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

ENJOYING SERVICE AS MEMBER OF CONGRESS

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

Mr. MCCOLLUM. Mr. Speaker, I rise today, because it is one of my last opportunities as a Member of this body to address my colleagues about whatever I might want to, and today I particularly want to say how much I have enjoyed my service as a messenger over the last 20 years. What a great honor and privilege it has been to have been a Member of this body.

I made many friends. I fought many battles on the floor of this House, and I would like to believe that my service will be left as very constructive. We had lots of things that happened in my tenure in serving the eighth district of Florida and prior to that, the fifth district; but we actually closed during that period of time nearly 40,000 cases for constituents in casework; nearly 400 high school interns came to Washington, D.C. to meet the Members of Congress, visit the House floor, attend congressional hearings and tour historic monuments, memorials, under my intern program; 422 high school students have received nominations during those years for my office to the Nation's military academies; 199 have received appointments; 15 senior interns participated in the Congressional Senior Intern Program to gain a first-hand look at how our government works and to provide valuable opinions on important issues; 8 High School pages have participated in the Congressional Page Program; 19 congressional art competitions have led to 19 works of high school art students hanging in the halls of this Congress.

I am proud of all of those. I am certainly proud of the staff work that has been done both personal staff and committee staff on my behalf and on the behalf of my constituents in the Nation over these years.

I can stand before you today and site legislative accomplishments and specifics; I am not going to do that. I look ahead more than I look back. I always have, and when one door closes another one opens. And I think that is what this Nation is about.

It is our young people that is what it is about. It is about the next generation, that is why we all serve in public life, that is why I served, that is what I am most proud of.

The contributions each of us make as we pass may be a small contribution now, but that can grow much greater later. And it is the duty, I think, of every American to participate in the electoral process and in the process of governance. Sometimes it may be in public office, sometimes it may be being no more than voting, but I hope that most young people who come forward in the near term will participate much more vigorously, getting involved in elections, being participants in their communities and community activities and in many other ways.

When they do so, I would like to believe that they will look at the next few years as pivotal years. We are the greatest free Nation in the history of the world. Our Founding Fathers gave

us a Constitution with its checks and balances that make us like no other Nation. We have opportunities for everyone. Equal opportunities, if you just take advantage of them.

We are not perfect. Nobody is, but when you look around the world, you will see what a great Nation we have and what a great government we have.

□ 1745

In our institutions, I think that better government, not bigger government should rule the day; that when decisions can be made at the local level of government, that is where they should be made: the city level, the county level, the State level, the local school boards. Only as a last resort does Washington do it and only, of course, under certain constitutional circumstances.

I think that is the guiding principle that our Founding Fathers gave us, and it is one that I hope we all will cherish into the future. I believe that, in the nearer term, to make that more meaningful for all of us, there are several things that need to be done. I have to leave that to my colleagues in the next Congress since I will not be here for that.

One of those is, of course, principled in the idea of choice. I happen to believe that choices should be maximized for individuals. The government should be not making decisions for us, especially in Washington, where we can make them for ourselves. Whether that is in the realm of education, whether that is in the realm of Medicare or Social Security or whatever it is, the more choices that we can give to people to make them themselves rather than government making those decisions, rather than the government being our parent, if you will, the better off we will all be.

That is the same with local government. I believe that we should, as a Congress and as a Nation, at the Federal level delegate responsibility back to the States and the cities and the counties and let them make those decisions with the legislation we have here rather than making all the rules up either legislatively or administratively. I am for less regulation, less rules, more openness and more opportunity for locals to make those decisions and individuals to do it.

I think it is important in that same realm that we have tax simplification. We talk a lot about tax reform. I have since been here. I certainly do not believe we ought to have a tax on capital gains at all or double taxation on dividends or a tax on earned interest. I certainly do not think that we should have an estate or death tax or marriage penalty tax. It is important to reform those.

I think it is also important to have across-the-board tax cuts where ultimately everyone makes choices and decisions rather than targeted tax cuts where the government makes the choice only if one complies with this

rule or that rule. But in the long run, the important part of tax reform is to make it simpler.

I would love to see a day, and I envision one, where every American can fill out their taxes, whatever it may be, be it income tax or sales tax or whatever, on a single sheet of paper. That is something that I would like to see. But as important as all of that is, I also believe that we have to rebuild our defenses. I believe that they have been built down way too far.

The next big challenge for this Congress, despite its differences, and it will have them, will be how do we rebuild those defenses the right way, to rebuild morale that is at its lowest point in years and years.

I urge my colleagues to do so, and I wish them well in making those decisions for our Nation's future.

PERSONAL EXPLANATION

Mr. GREEN of Texas. Mr. Speaker, yesterday, November 13, I was unavoidably detained in my district and missed rollcall vote numbers 595 and 596.

I would like the RECORD to reflect that, had I been present, I would have voted no on both rollcall vote 595 and 596.

WHO WILL BECOME THE NEXT PRESIDENT?

The SPEAKER pro tempore (Mr. PEASE). Under the Speaker's announced policy of January 6, 1999, the gentleman from California (Mr. SHERMAN) is recognized for 60 minutes as the designee of the minority leader.

Mr. SHERMAN. Mr. Speaker, I know that some of my colleagues have had to rush back to their office. One or two of them will hopefully join me here if they are of like mind and join in this discussion of what is the issue that is gripping America today; and that is the issue of who will become the next President, but more important, whether we can continue to have confidence in the democratic institutions of this country.

Now, let me deal with some of the basics first. The election last Tuesday produced a very clear winner of the popular vote. These were the results that were reported. My colleagues can read the numbers here. But GORE received almost a quarter of a million votes more than Mr. Bush. Now, I say a quarter million, because I know that the vast majority of ballots that have yet to be counted even today are absentee ballots from the State of California.

Mr. Speaker, I am from California. It is my business to know how absentee ballots and particularly late absentee ballots are likely to come in. I am confident that when those California votes are tabulated, not only will Mr. GORE have a lead of over 200,000, but a lead of 250,000.

But that is the popular vote, and we are a Nation dedicated to the rule of

law. Our law calls for the electoral college to operate. But for that college to operate, there has to be a fair count and a fair vote in each State. That is why we must turn our eyes to the State of Florida where we will see a genuine contest.

One side in that contest is trying to seize power through political power, chiefly through the power of the governorship of Florida and the Secretary of State of the State of Florida, two elected officials, and is trying to malign the rule of law or rather just malign the court system, which is pretty much the same thing.

See, one can be a football coach who says I believe that football should be played by the rules, but first we have got to kick all the referees off the field. We all have been angry at a call by a referee. I have been in stadiums where people yell "kill the ref." I have never quite joined in such a statement. But imagine what football would be like if there were no referees or if there was an attempt to go to someone paid by one of the teams and have them arbitrate the disputes.

Now, our courts are not perfect. But they are far less political, let me tell my colleagues, than those of us who are elected officials.

So I would hope that the courts of Florida would ultimately and quickly resolve the issues that are before us. Now, the main issue before us is how the votes in the counties of Florida are going to be counted. But before we get there, I would like to focus a little bit on the ballot in Palm Beach County, the famous butterfly ballot.

Here is a picture of it. We have all seen it. It is confusing; 19,000 people double punched on this ballot. Some of them had voted for Buchanan by mistake and thought they could correct it by punching a hole for GORE. Some of them saw two holes to the right of the Democratic candidate and thought that, if they wanted to vote for GORE and LIEBERMAN, they needed to punch both holes to the right. Some were simply confused by an array of arrows pointing in different directions, left and right to a row of holes.

Now, it is said that the voters could have known about this ballot by looking at their sample ballot. Well, without the holes, this ballot tells one nothing. A sample ballot comes in, the names all seem to be there, the people glance at it, and decide who to vote for and then show up on election day. To say that looking at the ballot without the holes is the same as looking at it with the holes is simply absurd.

But it is not enough that the ballot is confusing. In fact, I believe that there is a Florida court decision that says that, if a ballot is merely confusing, the courts will not provide redress to those who were confused.

We are a Nation of the rule of law. But the Florida courts were very clear when the Supreme Court of the State of Florida ruled 2 years ago, in Beckstrom versus Volusia County Can-

vassing Board, that is Volusia County Canvassing Board, that where there is not only confusion, as there clearly was in this case, but also noncompliance with statutory procedures.

Then the court must provide redress, must adjust the election or allow for a new election if there is reasonable doubt as to whether the certified election expressed the will of voters and when that doubt extends to who won the election.

Well, there are more people in the cloakroom some of the times than the number of ballots that separates Mr. Bush from Mr. GORE in the vote in Florida. There is no doubt that any confusion in Palm Beach County could well have affected the result of the Presidency of the United States. There is no doubt that the ballot was confusing.

Many on the day of the election before they realized how important it would turn out to be started complaining about that confusion. There is no doubt that this ballot was in violation of Florida law, not just that it was confusing, not just a vague law of Florida that the ballot should be clear and unconfusing, but two very specific statutes.

The first Florida statute that is violated by this ballot is the one that requires that the names be on the left and the holes be on the right for every candidate for public office. Here, as we see, some of the names are on the left and the holes are on the right and sometimes the name is on the right and the hole is on the left.

Now when one looks at that Florida statute, just reading through a statute book, its wisdom is not all that apparent. The reason for complying with the law may not be all that clear. But it is by violating that law that the officials in Palm Beach County created the ballot that now has the whole world watching Florida.

The second statute in Florida also requires that the first ranking on the ballot, the first listing and the first hole goes to the party that won the last gubernatorial election in Florida. That is the Republican Party. My colleagues will notice the Republican Party on this butterfly ballot has the first listing and the first hole.

The second listing and the second hole is supposed to go to the party that came in second in the last gubernatorial election. That is the Democratic Party. As my colleagues can see, well, the Democratic Party does not have the second hole; the Democratic Party has the third hole. Whether one views it as the second listing or the third listing depends upon whether one has a tendency to go from left then right or left column and then right column. But one thing is very clear, this ballot does not award the second hole to the Democratic Party.

Every voter in Florida had the right to a ballot with the names on the left and the holes on the right. Every voter in Florida had a right if they wanted to

vote for the Republican Party to punch the first hole; and if one wanted to vote for the Democratic Party for any office, punch the second hole.

Yet on this ballot, the second hole is for Pat Buchanan. That is why Pat Buchanan himself says that there are quite a number of votes, hundreds or perhaps thousands in Palm Beach County alone, that were registered as being for him but were not people who intended to vote for him.

So we are told that maybe there were not that many people confused. Well, the number of people voting for Pat Buchanan in this county and in this particular precinct exceeded any imaginable count for Pat Buchanan, even imaginable by him. But there were not only the Pat Buchanan ballots, but also those that were double-punched.

Now, in every election, there are people who just skip an office, even the Presidency. They go in, they say I do not like Nader, I do not like Bush, I do not know Gore, and I do not know who the Workers World Party is; and I am not going to vote for any of them, and they skip it. I am not talking about people who completely skip the Presidency. I am talking about those who voted twice due to a confusing ballot.

Now, in the 1996 election, far fewer people voted twice. James Baker, spokesman for the Bush campaign has tried to argue that there were 14,000 people who voted twice in Palm Beach County 4 years ago. That is not just fuzzy math, that is false math. See, that 14,000 figure is the sum of everybody in 1996 who just skipped the Presidential race, did not like Dole, did not like Clinton, just skipped it, and those who double-punched.

□ 1800

In fact, the number who double-punched last election was well less than half the number who double-punched in this election. This ballot was not only confusing, it led to confusion.

So what do we do about it? That needs to be determined, and it needs to be determined in the courts of Florida. But when faced with a similar circumstance, the courts have either ordered a new election or, and I do not recommend this approach at all, but Florida courts have done it, they have just statistically, quote, "corrected the ballot count." I do not think that is the way for the courts of Florida to go in something as important as the Presidency.

So I do not know whether the people of Palm Beach County will have their right to vote trampled upon by an illegal, as well as confusing, ballot and a refusal of the Florida courts to grant a revote. I know that that issue will not be reached for a while. But before we allow our impatience with this process to govern its outcome, let us remember how many Americans have died for the right to vote, not just in the suffragette movement, not just in the Civil Rights movement; but in every war

America fought, people fought and died for our democracy. We can wait another week, even another 2 weeks, even 3 weeks.

In fact, there is no particular rush at all. Mr. Speaker, on January 6 at 1 p.m. in this very room the electoral vote tallies from each of the 50 States and the District of Columbia will be presented at that desk, and they will be added up and tallied by the Senate and the House of Representatives assembled in this room. On January 6. And if it takes Florida till about then to be absolutely certain how its electoral college votes should be cast, in a way that reflects the majority of voters, what is more important, our own impatience or our dedication to honor those who died to give us and to preserve for us a democracy?

Now, in talking about a revote, which might be necessary in Palm Beach, I am jumping the gun a little bit. None of the candidates for President has called for such a revote because the focus now is just to accurately count the votes in the 67 counties of Florida. And here there has been an attempt by one politically elected partisan officeholder to thwart an accurate count. That worries me. I am talking about Katherine Harris, Secretary of State of Florida, who is also co-chair of the Bush campaign in Florida. Unfortunately, she seems to be wearing her hat as co-chair of a campaign rather than as chief election officer, because I will review all of the obstacles that have been placed by the office of the Florida Secretary of State in the way of an accurate vote of Florida's counties.

I want to quote Ms. Harris on one point. Ms. Harris is quoted as saying just a few days ago, and I am reading from the Palm Beach Post, November 14, that she would be passionately interested in a Federal post in foreign affairs or the arts if the Governor of Texas wins. To that end, according to this newspaper, she not only campaigned for Bush in Florida but had gone to New Hampshire, where the associated press reports that she had been part of the "Freezin' For a Reason Campaign" of Floridians flying to New Hampshire to campaign for Mr. Bush.

Now, I think it is just fine to campaign for someone to be President. I did. But my fear is that her self-confessed and announced passion for a position in the Bush administration is clouding her ability to carry out the prime responsibility of a State's chief election officer, and that is the accurate and fair conduct of elections. Passion for winning a post in the Federal Government should not control the decision-making process, but I fear it has.

It is pretty well acknowledged that a manual vote is the right way to do a recount. Let me put to rest some of the mistaken beliefs. First, it is said, oh, this is the second recount, the third recount, the tenth recount. Not true. Under Florida law, and not at the re-

quest of the Gore campaign or anybody associated with it, the counties of Florida did do a manual recount. That is up to them. The Gore campaign requested only one recount in four of the 67 counties. In the other counties, they said, fine, go ahead, we will not even request a recount. So the Gore campaign was in a position to request a recount in every county, but it requested only four.

The Bush campaign did not request a recount in any of those counties. But that is not because, as they claim, they are so dedicated to the machinery being more accurate, because many of us in this hall have been involved in elections and recounts and close elections involving punched cards and we all know, as the Governor of Texas knows, that the most accurate way to do a recount of a punched card election system is by hand, with people from both parties examining the ballots.

Now, why is that true? We live in an age where machines are praised and people are chided. But in this case, the invention of man, the machine, is not nearly as great as the creation of God. First of all, we are dealing with 1950s technology here. This is no Internet double-checked modem. This is a punch card. This is 1950s technology. And these machines we are talking about, even if one votes properly, doing everything according to the instructions, punch the hole hard and straight through the card, a chad can be left on that card, sometimes partially attached, sometimes hanging off the back, sometimes hanging off the back and then, in handling it, it swings back, so that the machine cannot determine.

As a matter of fact, the machine is erratic. Take a ballot that has been just slightly dimpled, run it through the machine, and sometimes it counts it, sometimes it does not. Take a ballot where there is a swinging door chad on the back. Sometimes the machine counts the ballot, sometimes not.

James Baker has cried out for standards. Of course, the counties of Florida have their standards, publish their standards, train their employees by the standards, do that training in front of a cable television camera, for those who are glued to their sets, and we know what those standards are. In fact, we can argue about those standards. I believe the Gore campaign argues in favor of counting a dimpled ballot and the people in Palm Beach, Florida may not be counting a dimpled ballot, that is to say one where there is an impression but no perforation. Well, we should know what the standards are, we ought to try to agree on those standards, and we ought to make sure that every challenged ballot is counted according to standards.

What standards does the machine have? Sometimes dimpled ballot, yes; sometimes not. Sometimes swinging door chad; sometimes not. The machine is not talking. The engineers who

made that machine are deep into retirement, and they are not talking either. Counting these cards by machine may be fast, but it is not the most accurate system.

Now, it is not enough for me to explain this, because the Governor of Texas already made his decision. In 1997, he signed into law a Texas statute, he signed it with his own pen, a new clearer statute for the State of Texas. What does it say? A manual recount shall be conducted in preference to an electronic recount. What does that mean? It means in Texas, if there are two candidates and both want a recount, the candidate who wants a machine recount only has to post a bond from which the fee may be taken, he may not get back his bond, his money, of \$18 a precinct. Another candidate, more interested in accuracy, has to pay \$30 a precinct as his or her bond.

And what if two candidates both want a recount? The candidate who wants a manual recount is preferred; that is to say, not necessarily to win the election, but the request for a manual recount has preference under the law of the State of Texas. Why? Because George W. Bush, when he signed this law, knew full well that a manual recount, while it may be a little more expensive, and by God I think the Presidency is worth \$30 a precinct, while a manual recount may be a little more expensive and time consuming, it has preference because it is more accurate.

So why does James Baker tell us to use machines? He tells us that Texas has standards and Florida does not. Well, first, Florida does have standards. They simply vary from county to county. But the Palm Beach standards are as good as the Texas standards, the Broward standards are as good as the Texas standards. But if James Baker was not trying to obstruct an accurate recount, if he was hoping to have the votes counted accurately, he would not be blocking a manual recount, he would be aiding it.

And how could he aid it? Let us read, please show us, because no one has seen them, those supposedly in existence Texas standards for dealing with these punch cards, which they also use in Texas. Do they count dimpled ballots in Texas? I do not know, but I would like to know. And frankly, if James Baker, if George W. Bush can provide us with better standards, let us see them. But they have no interest in improving the accuracy of a manual count. They want to block a manual count.

They refer to these machines as precision machines. These are machines that jam if the ballot is bent a little bit. The card is bent a little bit. They deride human beings as in error, even teams of three human beings working carefully with the TV cameras. They deride that as being faulty and praise a machine that cannot read a bent ballot, that would disqualify and disenfranchise one of our senior citizens who fought on Normandy or Iwo Jima

for the right of America to have a democracy, for his right and our right to vote, and his vote is going to be ignored by this supposed precision machine because, well, the ballot has a crease in it.

I cannot believe that the Governor of Texas would want to dishonor the oval office by sitting there only because creased ballots are not counted. I cannot imagine that someone would want to be President in denigration of the votes of a majority of the States with a majority of the electoral college votes. I understand he wants to be President, and it is his right to be President if he does not have a majority of the popular vote nationwide. But if he does not have a majority in States representing a majority of the electoral college, then he dishonors the Presidency by demanding it; and he places his own desire for power above patriotism when he does everything possible to get a woman who is passionately dedicated to holding office in his administration to deny the most accurate vote count.

□ 1815

Now, Mr. Speaker, I do want to deal with some of the other more extraneous issues that have come up, but first I want to deal with one more aspect of the argument as to what is the best type of count, the most accurate count. You see, Mr. Speaker, we serve here in the United States Congress, and four Republican candidates, let me repeat that, four Republican candidates for Congress have demanded and obtained manual recounts. They were Republicans, they wanted to sit in these chairs, and they got manual recounts.

By God, if filling one of these chairs is worthy of a manual recount, then certainly filling the chair in the Oval Office is worthy of a manual recount. You see, when JOHN ENSIGN wanted to sit in the United States Senate in 1998, we gave him a manual recount, or the State of Nevada gave him a manual recount. Bob Dornan got more than one manual recount. Peter Torkildsen, in 1996, demanded and got a manual recount. And, finally, Rick McIntyre in 1994, Republican candidate, got a manual recount, and throughout that process his cause was passionately advocated by then Congressman Dick Cheney. So Dick Cheney thinks that a manual recount is appropriate in filling a seat in this hall. George Bush signs a law in his own State saying that a manual recount has preference whether you are filling the governorship of Texas or the lowest county clerk in the smallest county, lowest or smallest county clerk in the smallest county. But somehow obstacles are placed. But I think ultimately these obstacles will be ineffective because ultimately the side of democracy will prevail, and the same divine providence that has given us a democracy for these 200 years and many more will make sure that we have democracy in this election.

Now, first they went to Federal court. They attacked and vilified courts. They have particularly attacked and vilified the Federal courts, those on the Republican side, often from this Chamber. They ran to Federal court, not for the purpose of seeking a more accurate count but for the purpose of demanding a less accurate count. And the Federal court turned them down, and they turned around and they appealed to the 11th Circuit, a very Republican, very conservative Federal court, and I am confident that they will be turned down there as well. Because not only should a court not interfere to provide for a less accurate voting system but certainly the Federal courts should not interfere in what under our Constitution is very clearly a State matter.

Then they went to the Secretary of State and demanded a 5 p.m. deadline. Why? To make sure that in Volusia County they had to stay up all night to do the manual recount and make the deadline so then James Baker could go on TV and say, "These human beings, you can't trust them, they were tired." Why were they tired? Because your person is imposing an unreasonable recount deadline, particularly unreasonable given the fact that Florida will not finish counting the absentee ballots from overseas until 5 p.m. Friday. So there is no speed-up here of when Florida will finish its vote tally. The sole purpose is not speed. The sole purpose is inaccuracy. And they hope to achieve it.

So then a court in Florida took a look at it and said, okay, all the counties can report their results by 5 p.m. today, and then they can go back and do a manual recount should they desire, and if they are dedicated to democracy they will, and then report that as a supplemental report. It will then be up to Ms. Harris to decide whether her passion for a Federal office exceeds her dedication to an accurate vote count, because then she will be confronted with whether to ignore this report or whether to record it. But if she arbitrarily and in passion for Federal office decides to ignore an accurate count, I am confident that the courts of Florida will order her to do the right thing. This election is too important to be decided by Ms. Harris' interest in a position in the arts or in foreign affairs in the Federal Government.

There is one other point I want to make, and, that is, we are told that we should ignore the problems in Palm Beach County because the press said some things they should not have said at around 20 minutes before the polls closed in the Florida panhandle. Keep in mind, a decade or two ago, the press would routinely report all through the day their exit polls and they would call States in the 1970s and the 1980s, they would call them just as soon as they could, whether the polls had closed in part of a State or none of the State or all of the State.

I am not prepared to throw out all the elections in the 1970s and 1980s just because the press did not have the good ethics which they have tried unsuccessfully to adopt for this election. But if we are going to start equating illegal ballots on the one hand to false press reports on the other, I would ask everyone to just make a mental checklist of how many false press reports we have had prior to the election, after the election. Are we going to disqualify the election just because at least to my way of thinking the press misrepresented the economic effect of Bush's Social Security plan? The press has a constitutional right under the first amendment to say what it wants, when it wants, where it wants. And the fact that they violated their own internal rules, adopted by some of them and not by others apparently, is no reason to throw out an election any more than the many times when the press violated its own rules of ethics by shifting a little bit this way or a little bit that way in a news report that should have been straight down the middle.

I see that I have been joined by the gentlewoman from Texas. Before I yield to her, I will ask how much time I have remaining.

The SPEAKER pro tempore (Mr. VITTER). The gentleman has 26 minutes remaining.

Mr. SHERMAN. With that, I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. I thank the distinguished gentleman from California for yielding. He has always been so articulate on issues dealing with taxation, and I am delighted that he has begun an explanation to the American people that is really, I believe, a key to understanding where we are on this day. This is Tuesday. It is now 7 days past the November 7 election that was held. I have several points that I would like to make clear. First of all, let us all acknowledge that we hold dear the right to elect the single candidate or the single person that represents all of the people of the United States. The House of Representatives is a people's House. We represent our respective congressional districts. The United States Senate has two Senators per State. But when it comes to the person that represents all Americans, it is in fact the President of the United States. Secondly, we are a country that is guided by laws. We are governed by law, and we accept the governance of law as men and women under the laws and the flag of the United States of America. So we are not a country so much run by people, and when I say that, run by the whims that one group may have over another. We have laws that may govern decisions that are made. And the people concede to the laws, and the people express their voices about the laws or political choices through the vote.

Now, in a newspaper article that was dated on Thursday, November 9, we find that 105 million voters set a record turnout. Some 76 percent of the reg-

istered voters went to the polls. Interestingly enough, Vice President GORE is now at this juncture the leader in the popular vote and, of course, the electoral count, even though we realize that Florida is still in play. Now, I respect all of the local officials that we have come to know in Florida, the local canvassing committees, the superintendent of elections. Each and every one of them has made their best effort. And like my colleague from California, I acknowledge that there were counts or calls being made before the eastern time zone of Florida, the panhandle area, was able to vote. But we know that they voted. Hopefully they voted. And I agree that the kind of calling of numbers should be considered when we do not want to disenfranchise voters. But might I say that the calling, the original call for GORE was based upon exit polling. People went out of the polls thinking, particularly in Palm Beach County, that they had voted for the Vice President.

Now, I went to Nashville, obviously after we had concluded our work in Texas, and let me congratulate the elected officials in Texas and all the workers in Texas because we certainly worked very hard and we worked in agreement and disagreement, meaning that there were those who went and voted strongly for Governor Bush and those who voted for Vice President GORE, and we accept our differences and realize that this is democracy.

I went on to Nashville after they had called Florida for the Vice President. Let me make it perfectly clear, the Vice President was in no way eager to delay or to not respect the fact that this may have been a win for the Governor of the State of Texas. It was those individuals who were keeping watch that encouraged the Vice President to hold his decision to move forward with a concession speech because all had not been counted. This is not an instance where one man is grabbing power to create disarray in this country. And it is important to note that there is no constitutional crisis. In fact, the transfer of power does not occur until January 20, 2001. In fact, December 18 is more than 3 to 4 weeks away.

So what do we need to do in this period that we have? We need to allow Volusia County, Palm Beach County, Miami-Dade County I understand is proceeding with a recount, and I believe Broward County is reconsidering. We need to have the kind of manual recount that the 1997 law that Governor Bush signed into law for the State of Texas brings about. And I think the decision that Judge Lewis rendered today should be emphasized, and that is that the court held that the Secretary of State cannot arbitrarily declare that she will not permit votes to be counted that are received after 5 p.m. but that she must receive and be prepared to consider vote counts that are reported after that time. That was the principal objective of all of those who were argu-

ing that the Secretary of State's decision was arbitrary in the first place not to allow the recount to occur.

This is not a decision from the top down. This is a decision or a desire from the bottom up. The people of Palm Beach County and other counties desire to have a manual recount. Yes, it was asked for officially within the time frame by the Gore camp but rightfully so in light of those who had argued that they were sorely confused when they went in and saw a ballot that had the areas to poke in contradiction to the memo that was sent out that all of those holes that should be pointed should have been to the right as opposed to some to the left.

So what we have at hand is an opportunity to have the Presidency earned and not handed to one candidate over another. You can be assured that the history of this Nation, some 400 years strong, will be a history that will warrant and will bring about a unified Nation that will rally around the ultimate winner of this Presidential election.

Why are we fearful? Why are we frightened? Why are we hesitant to know the actual winner? Why do we disallow the State of Florida, which is in play, and someone has said to the distinguished gentleman from California, well, we have got troubles in Iowa and troubles in Wisconsin and troubles in Illinois and troubles in New Mexico. If the people speak in those respective States, we will listen. But in the State of Florida, Florida is the key State that deals with whether or not either of the gentlemen will be the next President of the United States. That is the 25 electoral votes that are now in question. And it is the people of that State who have argued that they were confused and that a series of violations thwarted their being able to fully and justly vote their conscience.

□ 1830

If you have people coming out of the polls saying, I thought I had voted for Gore, but now I believe I voted for someone else, and this State is a State that will put whatever candidate it is over the top to make that person the President of all of the Nation, with 105 million voters of all walks of life, and the controversy in Florida being representative of people from all walks of life, this is not a black or white issue, or Hispanic or white issue, or any kind of issue, other than an American issue and a voters issue.

I recall that in some of our early histories, we were not all counted as voters. Non-property owners were not counted as voters. African Americans in the early census were three-fifths of a person and certainly not counted as a voter. Women were not allowed to vote.

We have a new America today, and I believe that this is a rush to judgment, and I hope we present our case where it is not being personalized. It may be that I am a Democrat and someone else is a Republican, but I can assure those

who might listen that if these issues were in the forefront of the Bush camp, they would be pursued as vigorously by their constituency base as others.

I also note that I do not think any of us, I would say to the gentleman from California (Mr. SHERMAN), I do not think any of us have rejected any call for recounts by Governor Bush. I have not heard anyone say that they did not want it or we would stand in the way of it. I think whatever the rules are of the State of Florida, he has every right to call for such.

Mr. SHERMAN. If I can interject here, the Governor of Texas had, for most counties, 72 hours. If he was dedicated to an accurate count, he could have in all the counties or some of the counties, he could have asked for a manual recount. He knew a manual recount was the more accurate way to do it. He signed the law for the State of Texas, your State, that says that that is the preferred method of a recount.

But they were so dedicated to using political push to try to shame anybody into asking, to try to use this political spin to prevent an accurate count, that they themselves allowed the deadline to go by and did not ask for a recount by hand in any of the counties of Florida. Then they complain that right now there are only four counties of Florida planning to do a manual recount. It is as a direct result of their decision, which they had plenty of time to consider, not to ask for a recount by hand.

But I would say that neither you nor I nor the Vice President have said that we would oppose a manual recount in any county in Florida, notwithstanding the point that, on the one hand, Governor Bush wants to have his cake by being able to pound the table and try to use political spin to prevent an accurate recount; and then he might, we hope, change his mind and ask for an accurate recount in some of the counties that he is concerned with. I do not think I would oppose it, and I do not think you would oppose it.

Ms. JACKSON-LEE of Texas. If I might do so in order to close on the comment I made, and I thank the gentleman for his kindness, in fact it has been brought to my attention that Mr. Baker had indicated that hand counts have only occurred in Democratic precincts. It has come to my attention that seven counties have done some form of hand counts, and Bush has carried six of those counties. They did that on their own.

Mr. SHERMAN. Exactly. In Seminole County, for example, there was a hand recount that provided Bush with an additional 90-some votes. He is claiming the Presidency; he wants it awarded to him immediately on the basis of a lead of about 300 votes. Over 100 of those come from the hand count in just one county where he can say he did not ask for it, but he wants the votes from it.

Ms. JACKSON-LEE of Texas. It occurred. I think that point is very important. Of course, when you get sort of global news reporting, those finite

points do not get offered because it appears, of course, that the voices that speak are only partisan.

As a member of the Committee on the Judiciary, I can assure you that, obviously, we may be looking at these issues, these sort of issues that have been brought to our attention maybe for months and months to come. That certainly will not be the time frame that the Presidency will be extended or the question of who will be President, but I just do not want us to give short shrift to some of the important issues that have been raised.

I do want to note that a large number of Voting Rights Act violations have been cited that will have to be addressed. That is why we have the Voting Rights Act of 1965. The lack of bilingual individuals at the poll, the fact that minority voters were being stopped in certain polling places, first-time voters who sent in voter registration forms prior to the State's deadline for registration were denied the right to vote because their registration forms had not been processed, not their fault. Citizens properly registered were denied to vote because election officials could not find their names. These are very large issues in a Presidential election.

I am looking at several pieces of legislation, one to study the impact of the electoral college. I know there is existing legislation to eliminate it. I do not know if we can make these immediate judgment calls right now; but, again, let me emphasize that the Vice President is the beneficiary of the votes of large numbers of Americans. 105 million came out to vote. So his efforts, I would hope, would be more focused or be perceived to be focused, as I believe they are, on getting an accurate and fair count for a position as important as the Presidency of the United States.

With the Voter Rights Act violations in play, with the whole idea of the people themselves wanting to have a recount, Palm Beach County in particular, with 19,000 ballots being thrown out in a county smaller than my county in Harris County, which only had 6,000. We had 995,000 voters, 6,000 discarded ballots as I understand it, and in that county in Palm Beach, 19,000, with people saying I thought I had voted for Mr. Gore, and as well with the ballot irregularity that I think my colleague will speak about in the continuation of this discussion, I can only say that what we should be doing is applauding what is happening in the State of Florida to the extent that there is such diligence to ensure that there is a fair and accurate count.

I would ask the Secretary of State, duly obligated to the people of the State of Florida, to lay aside any desires for partisanship that may be viewed necessary at this time, and to allow the people that she represents to carry forth with the manual recount that is now going on.

I would also ask her discretion in bearing with these unpaid, I do not

know how many of them are paid, but I know in my community they are volunteers, that if by chance Friday night they are not finished and Saturday evening they are not finished, that there be some opportunity for this to be followed through.

I thank the gentleman very much for allowing me the opportunity to join him in what I think should be an explanation that is a sincere explanation for the betterment of this country.

Mr. SHERMAN. I thank the gentleman. I appreciate the comments of the gentlewoman from Texas and the wisdom she brings us from her service on the Committee on the Judiciary.

I want to expand on one thing the gentlewoman pointed out, and that is the perception that someone who happens to want an appointment in the Bush administration, and says so to the press, and who chairs his campaign in Florida, would be making these decisions. The ultimate decision should be made by the courts.

Now, they are not perfect either; but I have spent the last several years in partisan politics, and to leave this in the hands of a partisan politician is a big mistake. Instead, the courts of the State of Florida should carefully review the discretion of the Secretary of State and make sure that she does not act in a capricious or arbitrary manner.

Now, I want to refocus our attention on the ballot in Palm Beach County and remind the House that in 1998 the Florida Supreme Court ruled in Beckstrom versus Volusia County Canvassing Board that if the court finds substantial noncompliance with statutory election procedures and makes a factual determination that a reasonable doubt exists as to whether a certified election expresses the will of the voters, then the court is to void the contested election, even in the absence of fraud or intentional wrongdoing.

I do not allege any fraud or intentional wrongdoing in Palm Beach, Florida, but the court decision of the Supreme Court of Florida is clear: substantial noncompliance with the statutory election procedures. This ballot violates those two Florida statutes, for example, the one that requires the name on the left and the hole to be on the right.

But the real confusion caused by this ballot became apparent on election day. The Washington Post reported last Saturday that by mid-morning of election day, voters were calling county commissioners, State legislators and other elected officials to complain about the confusing butterfly ballot and request that something be done. By mid-afternoon, local radio talk shows were bombarded with calls by people complaining about the ballot. Then a hastily written memo late in the afternoon was distributed from the county supervisor of elections to the various polling places, but they arrived after the vast majority of voters had already voted.

Those who want to say that the complaints about this ballot began only when the pivotal nature of the vote in Palm Beach County was apparent to the world are wrong. The protest began on election morning, when the first voters left the polls confused by this ballot, this illegal ballot.

Now, for example, you had one individual, Kurt Wise, who is president of the United Civic Organization at the Century Village Retirement Community, who said elderly voters confusion with the butterfly ballot was brought to his attention. People were crying. They were coming to us asking questions. The ballot form was lousy. They did not even know who they had voted for.

That is the report of the Washington Post from last Saturday. Tears the very morning of the election, not the morning after.

Then when some elderly voters became aware that the ballot had caused them to make a mistake, they were not given a second ballot, as is their right under Florida law if they turn in their damaged ballot. Bernard Holtzer, a retirement community inhabitant, said that after he unintentionally voted for Pat Buchanan, and after looking at this ballot you can see how he would make that mistake, a clerk refused his request for a second ballot. "I told the clerk I made a boo-boo and that I wanted a new ballot, and she told me there was nothing I could do about it." That was the New York Times, reporting last Saturday.

Then there were the poll workers who were told not to help voters with the problem, or any problem. They were under strict instructions to turn away voters who came to them with questions. Louise Austin, a precinct worker in Bolston Beach, said after getting beseeched by questions, she and other workers turned the voters away who were seeking assistance. "People were coming up to me, and I had to follow the directive, do not help anyone, do not talk to anyone." That is the report of the New York Times from last Saturday.

So we see that there were a lot of problems in Palm Beach; a confusing ballot, a ballot in violation of Florida statute, and a Florida Supreme Court decision from 2 years ago that makes it clear that, under these circumstances, a new vote in Palm Beach is called for.

But before we get to whether there is a new vote in Palm Beach, we have to get an accurate count of the votes cast on election day, and that is why I am so disappointed and saddened that the Governor of Texas is trying so hard to prevent an accurate count.

Again, let me turn to the statute he signed into law in Texas. A manual recount shall be conducted in preference to an electronic recount. When confronted by this, James Baker had to stop talking about precision machines, because the machines in Florida and those in Texas are identical, and in Texas Governor Bush signed the law

that said the human being outranks the machine.

He instead had to talk about standards. He has not shown us the standards in Texas; but what is worse, he has not suggested particular standards to any county in Florida. If James Baker has good standards, if George W. Bush has good standards, if somewhere in the deep bowels of the bureaucracy of Texas there are standards that could be helpful in providing the best possible manual recount, we ought to see them.

Instead, we are told that the machines are better than the human being. A machine that would take the ballot of a veteran of World War II and disenfranchise that veteran because there was a crease in the ballot, that is not a machine that should determine the Presidency of the United States.

□ 1845

So to sum up, Mr. Speaker, we have a misleading ballot in one county that was illegal and under Florida law should lead to a new election in that county. We have a recount that should ultimately, under the laws of the State of Florida, lead to being the tally of manual recounts in the 40 counties in which those manual recounts were duly applied for, and if Mr. Bush wants to announce to the world that he is suddenly in favor of manual recounts, then I do not see anyone who would oppose him if he tried to get a manual recount in some of those other counties. I would point out, though, that I think James Baker would have a tough time being his spokesperson on that issue.

Speaking of Mr. Baker's acting as spokesperson, there is one small aspect of this I really want to focus on, and that is the tendency of those on the Bush side to insult the parents of the campaign chairman on the Gore side. We have many heated debates here in the House, but I have never insulted the father of any Member, and I never thought that even if the father of a Member of this House had done something erroneous or wrong, that that would be a reason to discard and discount what that Member had to say. So why is it that James Baker finds it necessary to insult Bill Daley by insulting his father, as if insulting a man's father proves the rightness of one's case. If the best debater they have, James Baker, has nothing to say but "so is your old man", then they have run out of things to say on the Republican side.

With that, Mr. Speaker, I am hopeful that democracy will prevail in this country.

OMISSION FROM THE CONGRESSIONAL RECORD OF FRIDAY, NOVEMBER 3, 2000

THE FOLLOWING RESOLUTIONS APPROVED BY THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE WERE INADVERTENTLY OMITTED

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, October 5, 2000.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR SPEAKER HASTERT: On Wednesday, September 27, 2000, the committee on Transportation and Infrastructure, pursuant to 40 U.S.C. § 606, approved twenty-two resolutions concerning GSA's FY 2001 Capital Investment Program.

Please find enclosed copies of these resolutions.

With warm regards, I remain
Sincerely,

BUD SHUSTER,
Chairman.

Enclosures.

COMMITTEE RESOLUTION: AMENDMENT—UNITED STATES COURTHOUSE, LAREDO, TEXAS

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, that pursuant to Section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized for the construction of a 147,196 gross square foot United States courthouse, including 34 interior parking spaces, located in Laredo, Texas, at an additional construction cost of \$9,000,000, for an estimated construction cost of \$34,372,000 for a combined total cost of \$45,372,000, a modified prospectus for which is attached to, and included in, this resolution. This resolution amends Committee resolution dated February 5, 1992, which authorized appropriations in the amount of \$20,390,000 for site acquisition and construction; Committee resolution dated May 13, 1993, which authorized appropriations in the amount of \$3,793,000 for site acquisition and design; Committee resolution dated May 17, 1994, which authorized appropriations in the amount of \$24,341,000 for management and inspection costs, and the estimated construction costs; and Committee resolution dated July 23, 1998 which authorized appropriations for additional site costs of \$500,000, additional management and inspection costs of \$2,233,000 and an estimated construction cost of \$25,372,000.

Provided, That the construction of this project does not exceed construction benchmarks as established by the General Services Administration.

COMMITTEE RESOLUTION: LEASE—INTERNAL REVENUE SERVICE, FRESNO, CA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. § 606), appropriations are authorized to lease up to approximately 531,976 rentable square feet of space for the Internal Revenue Service currently located at 5045 E. Butler, Fresno, CA, at a proposed total annual cost of \$9,841,556 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL EMERGENCY MANAGEMENT AGENCY, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 339,247 rentable square feet of space and 12 parking spaces for the Federal Emergency Management Agency, currently located at 500 C Street SW, Washington, D.C. at a proposed total annual cost of \$14,248,374 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease. The General Services Administration is authorized to enter into an interim lease, pending award of a lease authorized by this resolution, provided that the term of any such interim lease may not exceed 8 years in length, inclusive of options.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF JUSTICE, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 113,525 rentable square feet of space for The Department of Justice, currently located at 901 E Street, NW, Washington, D.C. at a proposed total annual cost of \$4,768,050 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF VETERANS ADMINISTRATION, DEPARTMENT OF JUSTICE, GENERAL SERVICES ADMINISTRATION, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, U.S.-JAPAN FRIENDSHIP COMMISSION, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 151,367 rentable square feet of space and 10 indoor parking spaces for the Veterans Administration, Department of Justice, General Services Administration, Bureau of Alcohol, Tobacco and Firearms, and the U.S.-Japan Friendship Commission, currently located at 1120 Vermont Avenue, Washington D.C. at a proposed total annual cost of \$6,357,414 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Rep-

resentatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 95,569 rentable square feet of space for the Department of Housing and Urban Development, currently located at 470/490 L'Enfant Plaza, SW, Washington D.C. at a proposed total annual cost of \$4,013,898 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—SOCIAL SECURITY ADMINISTRATION, WOODLAWN, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 824,563 rentable square feet of space and 2,132 surface parking spaces for the Social Security Administration, currently located at 1500 Woodlawn Drive, Woodlawn, Maryland at a proposed total annual cost of \$14,347,396 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF HEALTH AND HUMAN SERVICES, ROCKVILLE, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 143,494 rentable square feet of space and seven parking spaces for the Department of Health and Human Services, currently located at 6010 Executive Blvd and 2101 E. Jefferson, Rockville, Maryland at a proposed total annual cost of \$4,161,326 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—IMMIGRATION AND NATURALIZATION SERVICE, GARDEN CITY, NY

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 86,250 rentable square feet of space and 625 outdoor parking spaces for the Immigration and Naturalization Service currently located at 711 Stewart Avenue, Garden City, NY, at a proposed total annual cost of \$3,536,250 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all

tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE AMENDMENT—INTERNAL REVENUE SERVICE, PHILADELPHIA, PA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 452,262 rentable square feet of space for the Internal Revenue Service currently located at 11601 Roosevelt Blvd, Philadelphia, Pennsylvania at a proposed total annual cost of \$5,776,341 for a lease term of ten years, a prospectus for which is attached to and included in this resolution. This resolution amends the Committee resolution of November 10, 1999, which authorized a lease for up to 452,262 rentable square feet of space at an estimated maximum annual cost of \$6,726,312 for five years.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF DEFENSE, ARLINGTON, VA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 170,459 rentable square feet of space for the Department of Defense currently located at Ballston Center Tower One, 800 N. Quincy St, Arlington, Virginia at a proposed total annual cost of \$5,454,688 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF LABOR, ARLINGTON, VA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 81,313 rentable square feet of space and 3 parking spaces for the Department of Labor, currently located at Ballston Center Tower Three, 4015 Wilson Blvd, Arlington, Virginia at a proposed total annual cost of \$2,602,016 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—GENERAL SERVICES ADMINISTRATION, PHILADELPHIA, PA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the

Public Buildings Act of 1959, (40 U.S.C. 606), appropriations are authorized to lease up to approximately 160,200 rentable square feet of space and 38 parking spaces for the General Services Administration currently located at the Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania at a proposed total annual cost of \$4,806,000 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL BUREAU OF INVESTIGATION, LAS VEGAS, NV

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 106,955 rentable square feet of space and 160 parking spaces for the Federal Bureau of Investigation currently located at 700 East Charleston Boulevard, 333 North Rancho Drive, 5145 Cheyenne Avenue, 21 North Pecos and 1202 Sharp Circle in Las Vegas, Nevada, at a proposed total annual cost of \$2,620,398 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—GENERAL SERVICES ADMINISTRATION, STOCKTON, CA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 1,439,694 rentable square feet of space for the General Services Administration—Federal Supply Service currently located at Rough and Ready Island, Stockton, California at a proposed total annual cost of \$2,764,212 for a lease term of five years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—DEPARTMENT OF JUSTICE—EXECUTIVE OFFICE OF IMMIGRATION REVIEW, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 152,650 rentable square feet of space and 100 indoor parking spaces for the Department of Justice—Executive Office of Immigration Review, currently located at multiple locations throughout Northern Virginia at a proposed annual cost of \$4,884,000 for office space, and a proposed annual cost of \$114,000 for parking, for a proposed total annual cost of \$4,998,000 for a lease term of

ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—UNITED STATES SECRET SERVICE, CHICAGO, IL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 76,200 rentable square feet of space and 140 parking spaces for the United States Secret Service, currently located at 300 S. Riverside, Chicago, Illinois at a proposed total annual cost of \$4,267,200 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—CORPS OF ENGINEERS, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, DEPARTMENT OF TRANSPORTATION, SMALL BUSINESS ADMINISTRATION, BALTIMORE, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 311,713 rentable square feet of space and 89 structured parking spaces for the Department of Transportation, Small Business Administration, Equal Employment Opportunity Commission, Department of Housing and Urban Development, and Corps of Engineers, currently located at the City Crescent Building, 10 N. Howard St., Baltimore, Maryland at a proposed annual cost of \$8,416,251 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL BUREAU OF INVESTIGATION, WOODLAWN, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 131,169 rentable square feet of space and 164 structured and 11 surface parking spaces for the Federal Bureau of Investigation, currently located at 7142 and 7127 Ambassador Road and 3100 Timanus Lane, Woodlawn, Maryland and 1520 Caton Center Road, Catonsville, Maryland at a proposed total annual cost of \$5,094,604 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—U.S. CUSTOMS SERVICE, FOOD AND DRUG ADMINISTRATION, U.S. MARSHALS SERVICE, SEATTLE, WA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 56,210 rentable square feet of space and 93 indoor parking spaces for the United States Marshals Service, the U.S. Customs Service, and the Food and Drug Administration, currently located at 1000 Second Avenue, Seattle, Washington at a proposed total annual cost of \$2,529,450 for a lease term of ten years, five years firm, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—NATIONAL INSTITUTES OF HEALTH, BALTIMORE, MD

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 392,482 rentable square feet of space for the National Institutes of Health Bayview Research Center, currently located at the Bayview Campus of Johns Hopkins University, Baltimore, Maryland at a proposed total annual cost of \$20,016,582 for a lease term of 20 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

COMMITTEE RESOLUTION: LEASE—FEDERAL TRADE COMMISSION, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to section 7 of the Public Buildings Act of 1959, (40 U.S.C. §606), appropriations are authorized to lease up to approximately 220,000 rentable square feet of space for the Federal Trade Commission, currently located at 601 Pennsylvania Avenue, NW, Washington, D.C. at a proposed total annual cost of \$9,240,000 for a lease term of ten years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FARR of California (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. HILL of Montana (at the request of Mr. ARMEY) for today until 12:00 p.m. on account of medical reasons.

extend their remarks and include extraneous material:)

Mr. MCCOLLUM, for 5 minutes, today.

ADJOURNMENT

Mr. SHERMAN. Mr. Speaker, pursuant to House Concurrent Resolution 442, 106th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. VITTER). Pursuant to the provisions of House Concurrent Resolution 442, 106th Congress, the House stands adjourned until 2 p.m. on Monday, December 4, 2000.

Thereupon (at 6 o'clock and 47 minutes p.m.), pursuant to House Concurrent Resolution 442, the House adjourned until Monday, December 4, 2000, at 2 p.m.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SHERMAN) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

(The following Members (at the request of Mr. MCCOLLUM) to revise and

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONYERS and to include extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$845.00.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and dollars utilized for official foreign travel during the third quarter of 2000, by Committees of the House of Representatives, pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2000

Name of member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrive	Depart		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
David Abramowitz	3/28	4/1	Switzerland		402.00						402.00
Commercial airfare							4,131.00				4,131.00
David Adams	3/30	4/3	Colombia		772.00						772.00
Commercial airfare							1,827.80				1,827.80
	4/16	4/18	Bangladesh		419.00						419.00
	4/18	4/22	India		1,275.00						1,275.00
	4/23	4/25	Pakistan		449.00						449.00
							7,406.84				7,406.84
Hon. Cass Ballenger	4/1	4/2	Costa Rica		110.00						110.00
Bob Becker	4/26	4/28	Nicaragua		497.50						497.50
Commercial airfare							469.80				469.80
Paul Berkowitz	3/29	3/30	Belgium		246.00						246.00
	3/30	3/31	Switzerland		270.00						270.00
	3/31	4/1	Italy		289.00						289.00
Commercial airfare							5,444.50				5,444.50
Commercial airfare	4/15	4/22	China		1,756.00				555.92		2,311.92
Commercial airfare							4,170.80				4,170.80
Commercial airfare	4/22	4/25	Taiwan		678.00						678.00
							735.66				735.66
Hon. Kevin Brady	4/21	4/22	Croatia		64.50						64.50
	4/22	4/23	Bosnia		141.50						141.50
Peter Brookes	4/15	4/22	China		1,756.00				555.92		2,311.92
Commercial airfare							5,107.80				5,107.80
Sean Carroll	5/19	5/22	Haiti		292.00						292.00
Hon. William D. Delahunt	4/1	4/2	Costa Rica		173.00						173.00
Michael Ennis	4/16	4/18	Bangladesh		444.00						444.00
	4/18	4/22	India		1,217.00				95.17		1,312.17
	4/23	4/25	Pakistan		474.00				293.77		767.77
Commercial airfare							7,406.84				7,406.84
David Fite	4/18	4/22	India		1,214.00						1,214.00
Commercial airfare	4/23	4/25	Pakistan		474.00						474.00
							7,319.00				7,319.00
	5/27	5/31	Russia		898.00						898.00
Commercial airfare	5/31	6/2	United Kingdom		642.00						642.00
							6,419.07				6,419.07
Richard Garon	4/7	4/8	Dominican Republic		114.00						114.00
Commercial airfare	4/8	4/9	Haiti		187.85				145.57		333.42
							640.02				640.02
Kristen Gilley	4/25	4/27	Greece		288.00						288.00
Commercial airfare	4/27	4/30	France		786.00						786.00
							4,613.19				4,613.19
Charisse Glassman	5/13	5/15	Haiti		235.77						235.77
Commercial airfare							873.80				873.80
Amos Hochstein	5/19	5/22	Haiti		292.00						292.00
	5/28	5/31	Russia		728.00						728.00
	5/31	6/2	United Kingdom		622.00						622.00
Commercial airfare							6,419.00				6,419.00
John Mackey	3/30	4/3	Colombia		772.00						772.00
Commercial airfare							1,827.80				1,827.80
	4/24	4/27	Greece		288.00						288.00
	4/27	4/30	France		786.00						786.00
Commercial airfare							4,613.19				4,613.19
Commercial airfare	5/17	5/20	Colombia		579.00						579.00
Caleb McCarr	4/7	4/8	Dominican Republic		174.00						174.00
Commercial airfare	4/8	4/9	Haiti		189.89						189.89
							640.02				640.02
	4/26	4/28	Nicaragua		497.50						497.50
	4/28	4/29	Panama		110.00						110.00
Commercial airfare							586.80				586.80
Kathleen Moazed	4/15	4/22	China		1,756.00						2,311.92
Commercial airfare							5,131.30				5,131.30
Hon. Donald M. Payne	5/14	5/15	Haiti		235.78						235.78
Commercial airfare							826.80		96.38		332.16
Stephen Rademaker	4/27	4/30	Slovak Republic		400.00						400.00
Commercial airfare							5,443.57				5,443.57
	5/28	6/1	Russia		1,200.00				954.52		2,154.52
Grover Joseph Rees	3/29	4/1	Switzerland		577.00						577.00
Commercial airfare							4,771.45				4,771.45

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2000—Continued

Name of member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrive	Depart		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²
John Walker Roberts	5/28	5/31	Russia		918.00						918.00
Commercial airfare	5/31	6/2	United Kingdom		622.00						622.00
Hon. Dana Rohrabacher	4/25	4/26	Macedonia		172.00						172.00
Commercial airfare	4/26	4/27	Kosovo		0.00						0.00
Commercial airfare	4/27	4/28	Austria		217.69						217.69
Tanya Shamson	5/20	5/23	Latvia		650.00						650.00
Commercial airfare							4,905.96				4,905.96
Peter Yeo	4/15	4/21	China		1,510.00						1,510.00
Commercial airfare							5,235.80				5,235.80
Grover Joseph Rees	5/30	6/6	Thailand		1,285.00						1,285.00
Commercial airfare							197.53				197.53
Commercial airfare							3,313.80				3,313.80
Committee Total					31,146.98		117,386.04		1,585.41		150,118.43

¹ Per diem constitutes lodging and meals.
² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
³ Indicates delegation costs.

BEN GILMAN, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON BUDGET, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 2000

Name of member or employee	Date		Country	Per diem ¹		Transportation		Other purposes		Total	
	Arrive	Depart		Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²	Foreign currency	U.S. dollar equivalent or U.S. currency ²

FOR HOUSE COMMITTEES
 Please Note: If there were no expenditures during the calendar quarter noted above, please check the box at right to so indicate and return.

¹ Per diem constitutes lodging and meals.
² If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JOHN R. KASICH, Chairman, Oct. 31, 2000.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10934. A letter from the Congressional Review Coordinator, Department of Agriculture, Animal and Plant Health Inspection Service, transmitting the Department's final rule—Brucellosis in Cattle; State and Area Classifications; Louisiana [Docket No. 99-052-2] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10935. A letter from the Congressional Review Coordinator, Department of Agriculture, Animal and Plant Health Inspection Service, transmitting the Department's final rule—Importation of Horses, Ruminants, Swine, and Dogs; Inspection and Treatment for Screwworm [Docket No. 00-028-1] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10936. A letter from the Congressional Review Coordinator, Department of Agriculture, Animal and Plant Health Inspection Service, transmitting the Department's final rule—Spanish Pure Breed Horses from Spain [Docket No. 00-109-1] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10937. A letter from the Executive Vice President, Commodity Credit Corporation, Department of Agriculture, Warehouse and Inventory Division, transmitting the Department's final rule—Bioenergy Program (RIN: 0560-AG16) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10938. A letter from the Associate Administrator, Department of Agriculture, Agricultural Marketing Service, Fruit and Vegetable Programs, transmitting the Department's final rule—Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, Except

Malheur County; Suspension of Handling, Reporting, and Assessment Collection Regulations [Docket No. FV00-947-1 FIR] received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

10939. A communication from the President of the United States, transmitting his requests for emergency FY 2001 supplemental appropriations totaling \$750 million in total grant assistance to the Governments in Israel, Egypt, and Jordan pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; (H. Doc. No. 106-313); to the Committee on Appropriations and ordered to be printed.

10940. A letter from the Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, transmitting the Department's final rule—Section 8 Housing Assistance Payments Program; Contract Rent Annual Adjustment Factors, Fiscal Year 2001 [Docket No. FR-4626-N-01] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

10941. A letter from the Secretary, Department of Education, transmitting the Department's final rule—Student Assistance General Provisions, Federal Family Education Loan Program, William D. Ford Federal Direct Loan Program, and Federal Pell Grant Program (RIN: 1845-AA17) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10942. A letter from the Assistant Secretary, Occupational Safety and Health Administration, transmitting the Administration's final rule—Ergonomics Program [Docket No. S-777] (RIN: 1218-AB36) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

10943. A letter from the Regulations Officer, NIH, Department of Health and Human Services, transmitting the Department's

final rule—Traineeships (RIN: 0925-AA11) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10944. A letter from the Administrator, NHTSA, Department of Transportation, transmitting the Department's final rule—Civil Penalties, Registered Importers of Vehicles Not Originally Manufactured to Conform to the Federal Motor Vehicle Safety Standards [Docket No. NHTSA 2000-8253] (RIN: 2127-A118) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10945. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Rate-of-Progress Emission Reduction Plans [MA-25-7197a; A-1-FRL-6882-7] received November 8, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10946. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approvals Under the Paperwork Reduction Act; Technical Amendment [FRL-6899-7] received November 7, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10947. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Implementation Plans; Michigan [MI74-02-7282a; FRL-6896-3] received November 7, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10948. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Florida [FL-86-200028(a); FRL-6902-4] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10949. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Wisconsin Designation of Areas for Air Quality Planning Purposes; Wisconsin [W196-01-7327a; FRL-6901-3] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10950. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Enhanced Motor Vehicle Inspection and Maintenance Program [MA-081-7211a; A-1-FRL-6897-4] received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10951. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Asbestos Worker Protection [OPPTS-62125B; FRL-6751-3] (RIN: 2070-AC66) received November 10, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10952. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's final rule—Revision of Annual Charges Assessed to Public Utilities [Docket No. RM00-7-000; Order No. 641] received November 8, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10953. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, transmitting the Commission's final rule—Guidance on Managing Quality Assurance Records in Electronic Media—received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

10954. A communication from the President of the United States, transmitting notification that the Iran emergency is to continue in effect beyond November 14, 2000, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 106-310); to the Committee on International Relations and ordered to be printed.

10955. A communication from the President of the United States, transmitting notification that the national emergency with respect to the proliferation of nuclear, biological, and chemical weapons (weapons of mass destruction) and the means of delivering such weapons is to continue in effect beyond November 14, 2000, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 106-311); to the Committee on International Relations and ordered to be printed.

10956. A communication from the President of the United States, transmitting a report on developments concerning the national emergency with respect to Iran that was declared by Executive Order No. 12170 of November 14, 1979, pursuant to 50 U.S.C. 1641(c); (H. Doc. No. 106-312); to the Committee on International Relations and ordered to be printed.

10957. A letter from the Ambassador, Republic of Slovenia, transmitting a report from the International Trust Fund for Demining and Mine Victim Assistance, Intermediate Activity Report 2000; to the Committee on International Relations.

10958. A letter from the Administrator, National Aeronautics and Space Administration, transmitting a report on the Inventory of Commercial Activities; to the Committee on Government Reform.

10959. A letter from the Deputy Assistant Administrator, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Sitka Pinnacles Marine Reserve [Docket No. 000616184-0290-02; I.D. 050500A] (RIN: 0648-

AK74) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

10960. A letter from the Attorney-Advisor, Federal Register, Certifying Officer, Department of the Treasury, Financial Management Service, transmitting the Department's final rule—Federal Claims Collection Standards (RIN: 1510-AA57 and 1105-AA31) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10961. A letter from the Rules Administrator, Federal Bureau of Prisons, Department of Justice, transmitting the Department's final rule—Inmate Discipline: Prohibited Acts [BOP-1083-F] (RIN: 1120-AA78) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10962. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Rules of Practice and Procedure (RIN: 3064-AC45) received November 14, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10963. A letter from the Under Secretary of Commerce for Intellectual Property and Director, Patent and Trademark Office, transmitting the Office's final rule—Treatment of Unlocatable Patent Application and Patent Files (RIN: 0651-AB19) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

10964. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, USCG, transmitting the Department's final rule—Regulated Navigation Area; San Pedro Bay, California [CGD11-00-007] (RIN: 2115-AE84) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10965. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, USCG, transmitting the Department's final rule—Safety Zone: Weekly Fireworks, Dockside Restaurant, Port Jefferson Harbor, NY [CGD01-00-217] (RIN: 2115-AA97) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10966. A letter from the Chief, Office of Regulations and Administrative Law, Department of Transportation, USCG, transmitting the Department's final rule—Noxious Liquid Substances, Obsolete Hazardous Materials in Bulk, and Current Hazardous Materials in Bulk [USCG 2000-7079] (RIN: 2115-AF96) received November 9, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10967. A letter from the Chief, Regulations Branch, Customs Service, Department of Treasury, transmitting the Department's final rule—Technical Amendments to the Customs Regulations—received November 8, 2000, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10968. A letter from the Chairman, Trade Deficit Review Commission, transmitting a report on "The U.S. Trade Deficit: Causes, Consequences and Recommendations for Action"; to the Committee on Ways and Means.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1689. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than December 5, 2000.

H.R. 1882. Referral to the Committee on Ways and Means extended for a period ending not later than December 5, 2000.

H.R. 2580. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than December 5, 2000.

H.R. 4144. Referral to the Committee on the Budget extended for a period ending not later than December 5, 2000.

H.R. 4548. Referral to the Committee on Education and the Workforce extended for a period ending not later than December 5, 2000.

H.R. 4585. Referral to the Committee on Commerce extended for a period ending not later than December 5, 2000.

H.R. 4725. Referral to the Committee on Education and the Workforce extended for a period ending not later than December 5, 2000.

H.R. 4857. Referral to the Committees on the Judiciary, Commerce, and Banking and Financial Services for a period ending not later than December 5, 2000.

H.R. 5130. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than December 5, 2000.

H.R. 5291. Referral to the Committee on Ways and Means extended for a period ending not later than December 5, 2000.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. DEFAZIO (for himself and Mr. LEACH):

H.R. 5631. A bill to establish a commission to study and make recommendations with respect to the Federal electoral process; to the Committee on House Administration.

By Mr. SCOTT:

H.R. 5632. A bill to amend the Higher Education Act of 1965 to permit Pell Grants to incarcerated students under limited conditions; to the Committee on Education and the Workforce.

By Mr. ISTOOK:

H.R. 5633. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2001, and for other purposes; to the Committee on Appropriations, considered and passed.

By Mr. HOUGHTON (for himself and Mr. RANGEL):

H.R. 5634. A bill to amend the Internal Revenue Code of 1986 to provide a rehabilitation credit for certain expenditures to rehabilitate historic performing arts facilities; to the Committee on Ways and Means.

By Mr. HUTCHINSON:

H.R. 5635. A bill to amend the National Labor Relations Act; to the Committee on Education and the Workforce.

By Mr. ROHRABACHER:

H.R. 5636. A bill to provide compensation for injury and property damages suffered by persons as a result of the bombing attack by the United States on August 28, 1988 in Khartoum, Sudan, and for other purposes; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 442. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate; considered and agreed to.

By Mr. PRICE of North Carolina:

H. Res. 667. A resolution requesting the President to furnish to the House of Representatives certain information held by the

Archivist of the United States concerning the transmission of electoral information under section 6 of title 3, United States Code, by the States and the District of Columbia; to the Committee on House Administration.

By Mr. ROHRABACHER:

H. Res. 668. A resolution to provide for the consideration by the United States Court of Claims of a bill for compensation, and for other purposes; 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. 40: Mr. PASCRELL.
 H.R. 2635: Mr. COX.
 H.R. 3249: Mr. PAYNE.
 H.R. 3433: Mr. GONZALEZ.
 H.R. 3698: Mr. GIBBONS.
 H.R. 3710: Mr. GOODLATTE and Mr. SERRANO.
 H.R. 3872: Mr. McNULTY.
 H.R. 4434: Mr. SCOTT.
 H.R. 4481: Mr. GUTIERREZ.
 H.R. 4506: Mr. MASCARA.
 H.R. 4971: Mrs. CLAYTON.
 H.R. 5065: Ms. EDDIE BERNICE JOHNSON of Texas.
 H.R. 5208: Mr. GONZALEZ.
 H.R. 5250: Mr. CLEMENT.
 H.R. 5499: Mrs. MEEK of Florida.

H.R. 5585: Ms. DELAURO, Mr. FILNER, Ms. PELOSI, and Mr. PHELPS.

H.R. 5612: Mr. ABERCROMBIE, Mr. BRADY of Pennsylvania, and Mr. LAFALCE.

H.R. 5613: Mr. STEARNS.

H. Con. Res. 341: Mr. SHAW and Ms. ROSELEHTINEN.

H. Con. Res. 412: Mr. GONZALEZ.

H. Con. Res. 430: Mr. DIAZ-BALART.

H. Con. Res. 431: Mr. PORTER and Mr. FILNER.

H. Res. 622: Mr. FARR of California.

H. Res. 635: Mr. HANSEN.



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WASHINGTON, TUESDAY, NOVEMBER 14, 2000

No. 146

Senate

(Legislative day of Friday, September 22, 2000)

The Senate met at 12:02 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Sovereign of our Nation, we trust You as ultimate Ruler of this land. Give us historically astute hindsight so we can have 20/20 vision to see that You are at work in the shadowy realms of the often ambiguous election processes. We grow in confidence as we remember that You have sustained us in crises over contested presidential elections at crucial times in our history. There is no panic in heaven; therefore there can be peace in our souls in the midst of the human muddle of this uncertain time.

You have all power, You alone are Almighty, and You are able to accomplish Your purposes and plans through the votes of Your people. You rule and overrule. When these votes bring us to results that are painfully close, give us patience to wait for a just resolution. Your intervening power is not limited: You are able to guide the candidates and their advisors about when and how to do what is best for America.

Lord, we all love a winner, but most of all, we want America to win in this conflict. With this as the focus of our attention, we intentionally turn away from divisive distrust of people and human systems to divinely inspired confidence in You. You are still in charge. In that liberating assurance, may the Senators and their staffs, and all of us who work with and for them, press on with alacrity to finish the work of the 106th Congress. You, dear God, are in control. You are our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable MIKE ENZI, a Senator from the State of Wyoming, 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.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. ENZI). The Chair recognizes the majority leader.

THANKING THE CHAPLAIN

Mr. LOTT. Mr. President, I thank the Chaplain for his always meaningful prayer that was especially meant for the times we are in.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, we will shortly proceed to a continuing resolution that will fund the Government through December 5. I should note there were a number of conversations during the day on Monday between the leadership in the Senate and the House and the President. The agreement was that a continuing resolution to a later date would be appropriate. There were earlier dates considered, but there was conflict with House Members on November 27. That is why the date of December 5 was agreed to.

It is expected that the Senate will also receive the adjournment resolution from the House fairly quickly so

that it can be considered prior to the policy luncheons. Both the continuing resolution and the adjournment resolution will be passed by unanimous consent. Therefore, no votes will occur during today's session.

I wish everyone a happy Thanksgiving and also urge that we complete our discussions at 12:30 p.m. as scheduled for the policy luncheons and that we move toward a quick adjournment when we return after the luncheons, hopefully by 2:30 p.m.

We will continue to work on the issues that are outstanding between the Republicans and the Democrats, House and Senate, and the administration during this interim period. Senator DASCHLE and I expect to meet tomorrow to talk over the substance of the issues pending.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until 12:30 p.m., with the time equally divided between the two leaders and each Member be limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIDEOTAPING CHAMBER ACTIVITY

Mr. LOTT. Mr. President, I send a resolution to the desk on behalf of myself and Senator DASCHLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:
A resolution (S. Res. 384) relative to rule XXXIII.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, for the information of the Senate, this resolution provides for the videotaping of

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S11511

Senator BYRD's statement in the Chamber in December at the organizational meetings and the orientation of our new Members so that this tape will be available for historical and educational purposes.

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. 384) was agreed to, as follows:

S. RES. 384

Resolved, That, notwithstanding the provisions of Rule XXXIII, the Senate authorize the videotaping of the address by the Senator from West Virginia (Mr. Byrd) to the incoming Senators scheduled to be given in the Senate Chamber in December 2000.

ORDER FOR STAR PRINT—S. RES.
379

Mr. LOTT. Mr. President, I ask unanimous consent that Senate Resolution 379, as adopted by the Senate, be star printed with the changes that are at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

DETERMINING A PRESIDENTIAL
WINNER

Mr. LOTT. Mr. President, I will make one comment at this point, and that is, this morning I had occasion to see Senator REID as he was passing by my office. We talked a little bit about history and the fact that the very office in the Capitol where I sit was where the House of Representatives met in 1801 to determine who would be President because there had been a tie in the election. The House of Representatives voted 36 ballots before they determined the winner by 1 vote to be Thomas Jefferson. He won over Aaron Burr. He went on to be one of the greatest Presidents in the history of our country. I leave that for a little thought for all concerned, and now worried, about what the future holds.

I yield the floor.

Mr. REID. Mr. President, before the leader leaves the floor, it is my understanding Senator SPECTER wants to speak for about 10 minutes and then we can use up the rest of the time until 12:30. Is the leader expecting to recess at 12:30 and come back at 2:15 p.m.?

Mr. LOTT. That is my intent. While we may not have normal policy lunches, it is my intent to recess at 12:30 so we can have luncheons as a group or individually, and we will come back after the luncheons, I presume at 2:15. Hopefully, we will close the session by 2:30. I will want to make sure that Senator DASCHLE has been consulted on that and agrees with that.

Mr. REID. I say to the leader that when we do reconvene at 2:15, or maybe even by 12:30, I will be in a position to tell the majority leader how many on our side wish to speak. I know Senator

DASCHLE does. I know Senator DORGAN perhaps wants to speak. But I will, as soon as I learn, advise the staff and the Senator of how much time we will need.

Mr. LOTT. I yield the floor, Mr. President.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

MODERNIZING VOTING PROCEDURES IN FEDERAL ELECTIONS

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation which would seek to modernize voting procedures throughout the United States in Federal elections. I do not intend to become involved in the current controversies but instead have been considering where we go from here in order to try to prevent the kind of concerns and problems which we have at the present time.

In Pennsylvania, I have had considerable comment from my constituents about the issue as to, in the electronic age, with computers available and with electronic devices available why do we have some sections of the country voting by paper ballot and why do we have a great variety of election procedures in voting, so that there is not uniformity and there is not a prompt count.

Looking at that issue, it seems to me that we can do much better on how we vote in Federal elections. The thought on my mind is Congress should address this issue at least as to Federal elections, leaving the matters of State and local elections to State officials under our Federalist concepts.

It is not really practical for someone to lay out an entire bill with the procedures to implement these objectives, but it seems to me—and I have been talking to some of my colleagues about it, and there are a number of Senators who are thinking in the same direction—that it will be useful to establish a commission which would take up the question of how we have election procedures which take advantage of computers and electronics so that votes may be tabulated accurately and promptly, and not have the kinds of issues which arose in our election on November 7.

I do, therefore, submit, Mr. President, the structure of a bill to establish a commission for the comprehensive study of voting procedures for Federal elections, to take a look at not only Federal elections but State and local elections as well, but with the purpose of finding a way to have accurate reporting, electronic reporting, and speedy reporting.

This bill is not in concrete. I am now soliciting cosponsors. I think we will have other cosponsors shortly. Since we have an abbreviated session today, with only a limited amount of time, I am introducing the bill at this time.

Mr. President, I will make just a comment or two about the electoral college.

As we have moved ahead with the concerns under the current contest between Governor Bush and Vice President GORE, I have found many of my constituents—and have noted comments in the media across the country—who are surprised about the way the electoral college works.

Illustratively, in my State of Pennsylvania, with 23 electoral votes, and Vice President GORE having received 51 percent of the vote and Governor Bush having received 47 percent, that Vice President GORE got all 23 of Pennsylvania's electoral votes.

In discussions I have found— candidly, a surprise to me—a fair amount of concern among my constituents about changing the electoral college. There is some confusion that any change in the electoral college may have some impact on the current contest between Governor Bush and Vice President GORE, which, of course, is not the case. This current election is going to be determined under the existing rules of the electoral college as it now stands. It seems to me that consideration ought to be given to a modification.

One approach would be to go to the popular election of a President. That appears to be unrealistic because there are so many smaller States which have only one Member of the House, two Senators, so they get three electoral votes. On a proportionate basis, they would be entitled to a 1-435th proportion in relation to the House, there being 435 Members of the House, but they have a 3-535th proportion, taking the House's 435 Members and the Senate's 100 Members. Since it takes a two-thirds vote to pass a constitutional amendment in the Congress, and ratification by three-fourths of the States, I think it is unrealistic to look to the popular election of a President.

But there is an alternative way where it might be achieved; that is, with a proportional representation. S.J. Res. 51 was introduced in the 96th Congress by Senator CANNON, cosponsored by Senators THURMOND, Goldwater, Harry Byrd and Talmadge, which provided for a constitutional amendment for proportional representation, which might be the way to go.

Illustratively, in a State such as Pennsylvania, with 23 electoral votes, and a vote split of 51 percent and 47 percent, it might be divided as 12 votes for Vice President GORE and 11 votes for Governor Bush. I think this is going to require further study.

I do think it is plain that the purpose of having the electoral college, as reflected in the Federalist Papers, was to provide a buffer between the common voter, who was thought at that time not to be sufficiently informed to directly elect a President. That, of course, was changed when we had a constitutional amendment providing for the direct election of Senators.

In the original Constitution, Senators were elected by the State legislatures, so that the common man did not

vote directly for a Senator. But that has been changed as we have come to understand that in modern times every voter has a full capacity to make the direct election of an elected official with Senators, and I think on the same analogy to the President as well. But because of the extra leverage for the smaller States, which I do not contest, the direct election is not realistic. But perhaps a proportional election through the electoral college might be appropriate, with the smaller States having the additional advantage of having two electors, accounting for their two Senators. I think that is going to require further study. Again, I have been discussing that with my colleagues.

I do think people in this country want to know what our plans are for the future. I also think there ought to be an awareness that many of us in the Congress are considering whether the electoral college should stand as it now is or whether it should be changed.

An intermediate ground may be this proportional voting of the electoral college, as reflected in S.J. Res. 51 from the 96th Congress. I believe there is no doubt that we need to modernize election procedures, and that the way to go would be a five-person commission with appointments made by the President, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House, and the minority leader of the House. These matters ought to be subject to consideration to try to eliminate some of the problems which the country now faces.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3269

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 "Commission on the Comprehensive Study of Voting Procedures Act of 2000".

SEC. 2. FINDINGS.

Congress finds that—

- (1) Americans are increasingly concerned about current voting procedures;
- (2) Americans are increasingly concerned about the speed and timeliness of vote counts;
- (3) Americans are increasingly concerned about the accuracy of vote counts;
- (4) Americans are increasingly concerned about the security of voting procedures;
- (5) the shift in the United States is to the increasing use of technology which calls for a reassessment of the use of standardized technology for Federal elections; and
- (6) there is a need for Congress to establish a method for standardizing voting procedures in order to ensure the integrity of Federal elections.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is established the Commission on the Comprehensive Study of Voting Procedures (in this Act referred to as the "Commission").

SEC. 4. DUTIES OF THE COMMISSION.

(a) STUDY.—Not later than 1 year after the date of enactment of this Act, the Commis-

sion shall complete a thorough study of all issues relating to voting procedures in Federal, State, and local elections, including the following:

- (1) Voting procedures in Federal, State, and local government elections.
- (2) Voting procedures that represent the best practices in Federal, State, and local government elections.
- (3) Legislation and regulatory efforts that affect voting procedures issues.
- (4) The implementation of standardized voting procedures, including standardized technology, for Federal, State, and local government elections.
- (5) The speed and timeliness of vote counts in Federal, State and local elections.
- (6) The accuracy of vote counts in Federal, State and local elections.
- (7) The security of voting procedures in Federal, State and local elections.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on the matters studied under subsection (a).

(c) REPORTS.—

(1) FINAL REPORT.—Not later than 180 days after the expiration of the period referred to in subsection (a), the Commission shall submit a report, that has been approved by a majority of the members of the Commission, to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

(2) INTERIM REPORTS.—The Commission may submit to the President and Congress any interim reports that are approved by a majority of the members of the Commission.

(3) ADDITIONAL REPORTS.—The Commission may, together with the report submitted under paragraph (1), submit additional reports that contain any dissenting or minority opinions of the members of the Commission.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members of whom—

- (1) 1 shall be appointed by the President;
- (2) 1 shall be appointed by the majority leader of the Senate;
- (3) 1 shall be appointed by the minority leader of the Senate;
- (4) 1 shall be appointed by the Speaker of the House of Representatives; and
- (5) 1 shall be appointed by the minority leader of the House of Representatives.

(b) DATE OF APPOINTMENT.—The appointments of the members of the Commission shall be made not later than 30 days after the date of enactment of this Act.

(c) TERMS.—Each member of the Commission shall be appointed for the life of the Commission.

(d) VACANCIES.—A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet at the call of the Chairperson or a majority if its members.

(2) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 6. POWERS OF THE COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may hold such hearings for the purpose

of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) WEBSITE.—For purposes of conducting the study under section 4(a), the Commission shall establish a website to facilitate public comment and participation.

(d) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(e) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Chairperson of the Commission, the Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this Act.

(f) CONTRACTS.—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 3709 of the Revised Statutes (42 U.S.C. 5).

(g) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property to carry out this Act.

SEC. 7. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 8. LIMITATION ON CONTRACTING AUTHORITY.

Any new contracting authority provided for in this Act shall be effective only to the extent, or in the amounts, provided for in advance in appropriations Acts.

SEC. 9. TERMINATION OF THE COMMISSION.

The Commission shall terminate 30 days after the date on which the Commission submits its report under section 4.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to prohibit the enactment of an Act with respect to voting procedures during the period in which the Commission is carrying out its duties under this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary to the Commission to carry out this Act.

(b) **AVAILABILITY.**—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

The PRESIDING OFFICER. Who seeks recognition?

The Chair recognizes the Senator from Iowa.

Mr. HARKIN. Mr. President, I understand we are in morning business; and we can speak for up to how long?

The PRESIDING OFFICER. Up to 5 minutes, with each side controlling 10 minutes total.

Mr. HARKIN. Mr. President, I commend and congratulate my friend and colleague from Pennsylvania for introducing this legislation to set up a commission. I think it is very timely.

I would just say to my friend from Pennsylvania, it seems that one of the things I have picked up in traveling around Iowa is that people are deeply concerned and somewhat unnerved by the fact that we have all these different types of voting machines around the United States. We are a mobile society. We move a lot. We go from one jurisdiction to another. You can go from one county to another and have a completely different system of voting on machines. Plus, some of these are really outdated. We have technology today that really can ensure that your vote is as you want it and that there are no mistakes made unless you intentionally want to do something such as that. We just have not adopted that new technology.

I think the proper course would be to set up some type of commission, give them the proper funding, and make sure it is a bipartisan commission that would be evenly divided, that could go out and look at these things and per-

haps report back to Congress in due time. I understand the Senator said he wanted 1 year to report back, if I am not mistaken.

Mr. SPECTER. If the distinguished Senator will yield.

Mr. HARKIN. I yield.

Mr. SPECTER. The legislation provides that the commission would have 1 year to complete a study and then 6 additional months to file a report. It is structured to be bipartisan, with the leadership of the House and Senate each having one appointee and the President having a fifth appointee, so the bipartisanship would be assured.

If I may add, it is well known the Senator from Iowa and I worked very closely together on the Subcommittee on Labor, Health and Human Services, and Education. We just had a brief informal discussion, so I may have picked up a cosponsor here before 12:30.

Mr. HARKIN. I think you might. In fact, in my comments I was going to talk about that. Obviously, we are thinking along the same lines. I really do believe there ought to be more uniformity, especially in national elections, on the type of equipment that is used. I must admit, being from Iowa, we don't use punch cards. That went out years ago. I was quite surprised some States were still using punch cards. Really, they are open to all kinds of problems. Some States still use the old lever, the old hand-cranked machines.

I don't know; does the Senator know how many different types of voting machines are used in the United States today?

Mr. SPECTER. If the Senator will yield, I do not. There are even different kinds of machines used in Pennsylvania, and there are still many paper ballots which are being used. It is astounding not to have rapid, accurate results on election night, with computers being what they are and the possibilities of electronics. This may be a matter on which the Federal Government will have to do some financing. The study ought to be made. Congress ought to consider it and try to solve at least a big part of this problem.

Mr. HARKIN. I thank the Senator for his leadership on this issue.

Mr. REID. Mr. President, I ask unanimous consent the remainder of the Democratic time be allotted to the Senator from Iowa.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I thank the Senator from Nevada.

I note many Americans have expressed concern about the time it is taking to determine whom the American people elected as President last Tuesday. We just came out of a meeting. A bunch of reporters stopped me just off the floor, talking to me about the crisis and shouldn't we have to get this resolved. I said: Wait a minute, there is no crisis in this country right now. Frankly, I am heartened to see that most Americans' first priority is

to ensure the votes are counted with precision, accuracy, and fairness. The American people know how important is one of the bedrocks of our great democracy, the idea no matter how rich or poor, powerful or weak, no matter what race, creed, or sex, the vote of every American counts equally: One person, one vote.

We can all agree this Presidential election is one of the closest in our Nation's history. Now it appears that Vice President AL GORE has won the popular vote. He currently leads by about 223,000 votes. He also, right now, is ahead in the electoral college, but that electoral college outcome is much less clear. At this point, whichever candidate wins Florida probably wins the Presidency, and right now, according to the latest reports, only 388 votes separate the two candidates. To put it in context, that is .0067 percent of the votes in Florida.

Frankly, I think we can all agree the spirit of "whatever it takes to win and to heck with the will of the voters" has no place in American politics. So I was pleased to see the initial polling shows that these efforts have failed. According to a recent Newsweek poll, 72 percent of American adults believe that making certain the count is fair and accurate is more important than rushing to judgment to get matters resolved quickly.

Yes, democracy is slow. Yes, democracy takes time. But it is worth it, and the American people understand that. There is no crisis. We should take our time, and we should determine accurately what the will of the voters really is.

Much has been said of the hand counting of ballots in Florida, as if that were something strange and new. We do hand counting of ballots all the time for sheriff, for local county commissioner—all the time. This is done at every election in the United States, Federal and State and local, when it is very close. Why is the office of President less important than local sheriff? It seems to me if hand counting of a ballot is important for the local sheriff's race, it is equally important, even more important, for the highest office of the land.

It has been said that machines are neither Democratic nor Republican. That is true. But let's keep in mind, the only reason we use voting machines in this country is, No. 1, it is cheaper and, No. 2, it is quicker. Still, the most accurate way to determine each person's vote is to have that person walk into a voting place, give each a paper ballot, and have each go in there and mark the boxes with an x, fold the ballot, step out, and put it in a box. Then when the polls close, a committee looks at these ballots and counts each one. That is clearly the most accurate way of counting votes.

Why don't we do that in America? Obviously, you would not know the outcome of elections for months afterwards because it would take that long

to hand count all the ballots. Second, it would be prohibitively expensive. But the idea that somehow machines are more accurate than human counts is just nonsensical. It is just not true. The human count is still the most accurate.

When the votes are really close and when the office is at stake because of the closeness of the votes—.0067 percent of the votes in Florida, as I stand here—it is incumbent upon us to do what we would do in a local sheriff's race or supervisor's race, and that is to hand count these ballots.

Again, having said that, I will have more to say about it later on this afternoon. I see the hour is 12:30 so the time has come for our recess. We will be back in at 2:15. At that time, I want to explore a little further the idea of having a standardized procedure for standardized voting machines for the entire country, one on which people can rely no matter where they live. People move all the time. They should not have to be confronted with different voting machines.

Mr. President, I ask unanimous consent to be listed as a cosponsor of the legislation just introduced by Senator SPECTER of Pennsylvania.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Has the hour of 12:30 arrived, Mr. President?

Mr. SPECTER. I suggest the absence of a quorum.

The PRESIDING OFFICER. I think the resolution we have been waiting for has arrived.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: I understand that the Senate will reconvene at 2:15.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, I ask unanimous consent that when the Senate reconvenes at 2:15 I be recognized for up to 15 minutes to finish my statement.

The PRESIDING OFFICER. I think we have a previous consent agreement that allows for each of the leaders to present a list of those who wish to speak.

Mr. HARKIN. I did not hear the President.

The PRESIDING OFFICER. I guess it is not an actual unanimous consent request.

Is there objection to the request? Without objection, it is so ordered.

Mr. SPECTER. 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. SPECTER. 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. SPECTER. Mr. President, I had asked for a quorum call for just a mo-

ment so that staff could complete certain paperwork. So it may be understood why I asked for the quorum call and asked that it be rescinded so promptly. On behalf of our distinguished majority leader, I have been asked to make this unanimous consent request.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2001

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the continuing resolution, H.J. Res. 125, funding the Federal Government through December 5, 2000; that the joint resolution be read the third time and passed, and the motion to reconsider be laid upon the table, all without any intervening action, motion, or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The joint resolution (H.J. Res. 125) was read the third time and passed.

Mr. REID. Mr. President, it is my understanding that when we come back at 2:15, there will be a time for morning business.

The PRESIDING OFFICER. That is correct.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UNANIMOUS CONSENT AGREEMENT—H. CON. RES. 442

Mr. SPECTER. Again, on behalf of the majority leader, I ask unanimous consent that when the Senate receives the adjournment resolution from the House, the resolution be agreed to and the motion to reconsider be laid upon the table, all without any intervening action, motion, or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FITZGERALD).

The PRESIDING OFFICER. The acting majority leader is recognized.

ORDER OF PROCEDURE

Mr. MURKOWSKI. On behalf of the majority leader, I ask unanimous consent that following the 15 minutes allotted to Senator HARKIN, Senator

LOTT or his designee be recognized for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I indicated to the majority leader I would indicate when I came back how many speakers we have. Senator DODD indicated he wants to speak for half an hour. Senator HARKIN will speak for 15 minutes. The Democratic leader, Senator DASCHLE, wishes to speak for 15 or 20 minutes. Those are the only speakers we have had request time on this side. If there are any others, I will be happy to inform the Chair.

Mr. MURKOWSKI. Mr. President, in view of the request of the minority, I ask unanimous consent that following the 15 minutes allotted to Senator LOTT or his designee, there be an additional period for morning business until 4:15, with the time equally divided between the two leaders or their designees.

Mr. REID. Reserving the right to object, I just add to that unanimous consent request that during that period of time, Senator DODD be recognized for up to 30 minutes, and the Democratic leader for up to 20 minutes.

Mr. MURKOWSKI. It is my understanding that will be off of their time.

Mr. REID. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. The time will be equally divided between the two sides. I thank the Chair and I trust that meets the requests of all interested Senators.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I request 5 minutes of the time the majority leader has reserved.

Mr. MURKOWSKI. Mr. President, on behalf of the majority leader, I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. Senator from Missouri is recognized.

OSHA ERGONOMICS RULE

Mr. BOND. Mr. President, I rise to call to the attention of my colleagues and the many people across this Nation the fact that the Occupational Safety and Health Administration has rushed to judgment and published a huge, extremely burdensome ergonomics rule. They had talked about this previously with bipartisan support. We had included in the Labor-HHS bill, as well as others, legislative vehicles stating that they should not go forward with this measure because of the burdens it imposed. I have in my hand the voluminous computer printout of the rule. I chair the small business committee, and I can just see the thrill and excitement with which a small business will view this rule coming down on their backs.

I hope this body can take action to stop the implementation of this rule

until OSHA itself and the scientific evidence can provide real guidance to small business and other businesses on how to reduce ergonomics injuries.

In the last 7 years, the incidence of ergonomics injuries has gone down by a third—26 percent in carpal tunnel syndrome and 33 percent in tendonitis. It is in the interest of employers and employees to reduce to the greatest extent possible the very painful, time-consuming and profit-consuming impact of ergonomics injuries.

Well, OSHA decided they had been working on this for a long time and they wanted to get something out the door before the Clinton administration left office. Our political friends said we have to have an ergonomics rule. This overrules State workers compensation laws and tells employees if they have an ergonomics injury, they can collect more workers comp than the State provides them. We are overruling State workers comp laws.

It also tells employees that if you get an ergonomics injury—say you are in a bowling league on your own time, or you are crocheting in the evening and you come up with an ergonomics injury—if that is made worse by the job that you are doing, then your employer has had it. This ergonomics rule doesn't give any sound guidelines on how employers and employees working together can reduce ergonomics injuries. That is what we need from OSHA, not a punitive measure which says if somebody has an ergonomics injury, you are dead; your workers comp account is going to be held hostage and you are going to be subject to lawsuits.

All this says is, that if the highway speed limit sign says don't drive too fast and you are driving down the road at what you think is a reasonable speed and a State trooper flags you over and says: You know what, you were going 40 miles an hour, and I think 35 miles an hour is a reasonable speed, so you are guilty. That is precisely what they propose to do with this ergonomics regulation, and it affects businesses of all sizes.

I have talked to soft drink distributors who say: If we don't go out of business, we are going to have to buy equipment and get rid of employees to have machines doing the work. You can talk to people in the delivery business—express delivery or any other delivery business—and they know that no matter what they try to do, even if they continue to reduce the incidence of ergonomics injuries, any time there is an ergonomics injury, they are going to be held responsible even if they didn't initially cause it. Well, we have the Small Business Regulatory Enforcement and Fairness Act and we have lawsuits that are about to be filed by many organizations representing small business. I support those lawsuits. I hope this body can act to stop the implementation of this draconian rule.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa now has 15 minutes.

Mr. HARKIN. Mr. President, I understand I am recognized for up to 15 minutes.

The PRESIDING OFFICER. That is correct.

THE CLOSEST ELECTION IN OUR NATION'S HISTORY

Mr. HARKIN. Mr. President, as I said this morning, we can certainly all agree that this Presidential election is one of the closest in our Nation's history. While AL GORE appears to have won the popular vote, leading by 223,000 votes, the electoral college outcome is much less clear, even though Vice President GORE also leads in the electoral college vote at this time. At this point, whichever candidate wins Florida will probably win the Presidency. Right now, according to the latest reports, only 388 votes separate the two candidates. That is 0.0067 percent of the votes in Florida—less than seven-thousandths of 1 percent.

Yet when it appeared that the extremely close vote in Florida would decide the election, rather than waiting for a careful counting of the ballots as required by Florida law, the Bush campaign pushed for acceptance of the current count. The American people disagree. According to a recent Newsweek poll, 72 percent of American adults believe that making certain the count is fair and accurate is more important than rushing to judgment to get matters resolved quickly. Democracy is slow, yes; democracy takes time, yes; but democracy is still the fairest system of all, and the American people understand that.

It was very discouraging that just days after the Bush campaign sharply criticized our respected former Secretary of State, Warren Christopher, for leaving open the possibility of seeking judicial review of highly questionable portions of the process, the Bush lawyers themselves went to Federal court to block a hand recount of questionable ballots—a process that is generally recognized as much more accurate than machine counting.

I also find it highly ironic that the Bush lawyers chose to try to block a hand recount when they themselves, according to news reports, supported a hand recount in New Mexico. In fact, in 1997, Governor Bush himself signed a Texas law that seems to encourage hand recounts of disputed votes.

Now, as we all know, just a few hours ago, the latest attempt to block a complete and fair count has been upheld by a court in Florida, although an appeal is expected shortly, if in fact it hasn't happened by now.

The court ruled that Florida's Secretary of State, who was an active Bush supporter and traveled around the Nation on his behalf, could cut off the county's recount efforts at 5 p.m. this afternoon. She made the decision to end the count at that time, 5 p.m. today, knowing full well that the hand count of the ballots allowed by Florida

law cannot possibly be completed by that point in time.

In America, we are certainly used to getting results of our elections from the news networks almost immediately after the polls close, sometimes 3 or 4 hours later in relatively close elections but almost certainly the next morning. However, we have to realize that what we heard from the networks early on election night were not actual election results but exit poll results based on a very few counted ballots. When the difference between the candidates falls below a couple of points, we have to wait for an actual vote count. When the difference falls below a few tenths of 1 percent, we have to wait for a careful recounting of the votes.

There are several important reasons for these procedures. First, precinct and county election officials are dealing with many numbers quickly on election night. Mistakes are unavoidable. But in this case, where the difference is not 1 percent or a half percent but less than seven one-thousandths of 1 percent, or just over 300 votes out of over 5 million cast, we cannot allow any room for error.

The very machines that we use to count votes are prone to inaccuracies. The inaccuracies in some Florida counties occurred because not all voters marked their ballots to the preset machine standards. In some cases, they were using punch cards. Well, people don't always push the paper dot out of the hole, and sometimes they don't totally fill in the circle with the No. 2 lead pencil; thus, the machines can't always detect these votes. In a typical election, this isn't a problem.

Election officials know that one out of every so many votes won't be counted by machines. I wonder how many American people know it is a given fact that one out of so many votes will not be counted by a machine. They are very inaccurate. In an election where one candidate wins by 5 percent or 8 percent of the vote, these inaccuracies make very little difference in the final outcome.

But in an election as close as this, every single one of these votes matters. We have to count every single last one of them. No American should be disenfranchised because of a mechanical error. That is why I believe we have to be patient and allow the process to continue.

Again, former Secretary of State James Baker keeps saying that we have already counted the votes twice. But what he doesn't mention is that these counts were both done with machines that have error rates far larger than the percentage of votes separating the two candidates. Machine error rates are far higher than seven-thousandths of 1 percent. Mr. Baker says that machines don't have bias, that they are neither Democratic nor Republican. I keep hearing this statement.

It is also true that machines are far too inaccurate for the kind of count we

need in this election. These machines just cannot count all those ballots where the hole is not completely punched or the circle is not completely filled in. Only human beings who can see whether someone tried to punch through the paper or make a mark can do that. To those who say that machines are more accurate than human beings counting ballots I would just ask: Have you ever gotten a phone bill that was inaccurate? How about your credit card bill? Machines make mistakes all the time. If you are not careful in catching them, you may be paying a little too much on your phone bill when you pay it. That is why we carefully look over our bills. The only way to really accurately get a count is through the time tested, old-fashioned way of counting these ballots.

Why do we use voting machines? We do not use voting machines because they are more accurate. We use voting machines because, No. 1, they are quicker and, No. 2, they are less expensive. They do not cost as much. Still, the most accurate way of determining every person's vote is to have people walk into a voting place; you hand them a paper ballot. They walk into the booth; they take their pencil and they mark the X in the box or circle; they fold the ballot, stick it in the box, and when the polls close those ballots are hand counted by human beings, impartial panels—one from each party, let's say—counting these ballots.

If that is the most accurate way, why don't we do that in America? Because in a national election such as this it would take maybe a couple of months to count all the ballots nationwide, and we want to know before then what the results are. Plus the cost of paying humans to sit there and count the ballots would be exorbitant. So we must disabuse ourselves of this false notion that somehow voting machines are more accurate. They are not. The most accurate is still hand counting those ballots.

We have to remember also that there is nothing exceptional about conducting a recount. Both hand recounts and machine recounts are common in close elections. This happens all over America in every election. We have recounts even in local sheriffs' races. Imagine. Let's take the Florida race. Let's bring it home to a county. Let's say we are having a sheriff's race in a county and let's say there were 4,000 votes cast in the sheriff's race, 2003 for one candidate, 1,997 for the other. The county says it is too close; we are going to have a recount. They start hand recounting it. They hand recount 200 ballots out of the 4,000 and the outcome changes by 2 votes. Now, instead of being separated by 6 votes, the candidates are separated by only 4 votes.

Let's say the top ranking election official in the county comes in and says: Stop counting. You have counted 200 ballots; you cannot count anymore. What do you think the outcry would be like in that county?

What, you have counted 200 ballots, the vote has changed by 2, that could be 30 or 40 votes out of 4,000 ballots. That could reverse the original improperly counted outcome.

That is exactly what is happening in Florida on a much larger scale than the local sheriff's race to which I just alluded.

Secretary Baker protested that the election officials in control of the Florida counties being recounted are Democrats. I find it interesting he is not protesting that the chief election official in Florida is a Republican, the very official who decided today to suspend the ballot counting at 5 p.m. The Secretary also neglected to mention there are Republicans sitting in the counting rooms, monitoring the count to eliminate even the slightest possibility of partisanship. To this day I have not read or heard a single word in the newspaper or on the media anywhere to suggest that any improprieties in hand recounts have occurred. The American people can be satisfied that hand recounts are accurate and fair.

Again, what has happened today with the Secretary of State saying at 5 p.m. we have to have all the ballots in and stop counting the hand ballots—that is like in the local sheriff's race, you have counted 200 ballots out of 4,000, the votes have changed a couple, and the election official says: Don't count anymore. I think the American people understand this. They get it. You cannot just count a few and say we are going to stop there.

In our democracy, victory is determined by who gets the most votes in each State. I see no harm in waiting to make sure each count is fair and accurate. The electoral college doesn't vote until December 18, and their votes are tentatively set to be counted by a joint session of Congress on June 6, 2001. So we have plenty of time to make sure the true winner is named. So I submit the most fair and most accurate way of determining who won the electoral votes of Florida, because that is what is in contest right now, the electoral votes in Florida—the best way to determine that is to have a hand recount of all the ballots in Florida. I am told by those knowledgeable of this situation this could be done within probably 10 days to 2 weeks at the most. This could be done and then we would know with a finality and a certainty just who is selected to be the next President of the United States. If we do not do this, a cloud is going to hang over whoever is chosen to be the next President.

I think that is the proper way to proceed. It is improper, illogical, and not in the best interests of fairness and accuracy to stop the hand counting of ballots when only a few have been hand counted. I understand about 1 percent of the ballots in a couple of counties have been counted at this time.

With States such as Florida in question and with candidates separated by a tiny vote margin, it may take a few

weeks to make a clear determination. I believe that is in our best interests. Slow down. We are not in any hurry. What is the rush to judgment? Let's take our time. Whoever is the President, is going to be President for the next 4 years. I submit what is important at this point in time is not whether Vice President GORE is the President-elect or Governor Bush is the President-elect. That is not what is important right now. What is important right now is the sanctity of each person's vote; to make sure that each person's vote is counted properly. That is what is important here. If we know—and we do know—that machines make mistakes, and we have seven-thousandths of a percent dividing these two candidates in the State of Florida, then the most fair way to do it is to hand recount these ballots.

For the life of me I do not understand why the Bush campaign is so opposed to this. As I said earlier, we have hand recounts.

The PRESIDING OFFICER. The 15 minutes of the Senator has expired.

Mr. HARKIN. I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. As I said earlier, we have hand recounts every election in the United States. Most often they are on more local elections such as elections for county supervisor, maybe a State representative. But it is not unheard of to have hand recounts for the House of Representatives or for the U.S. Senate. It is just that we have never had a Presidential election this close. So if it is fair and logical and in the best interests of ensuring that every voter's vote is counted accurately, if it is in our best interests to do that in a race for sheriff, is it not even more in our interest to have that kind of hand recount in this race for the Presidency of the United States?

I believe those who are somehow trying to stop the hand recount in Florida, trying to say let's just take the machine count whatever it is and we will live by that, or I guess with some overseas ballots that are due in, knowing full well the margin of error in the machines is more than the percentage difference in the two votes—if you are making that argument, what you are basically saying is the most important thing is to stop the process right now. That is more important than deciding the fairness and accuracy of each person's vote.

There is no crisis in America. Frankly, I disagree with Secretary Baker completely. This morning he was saying the markets are now going to be upset by this. That is nonsense. That is just nonsense. The American people understand this. There is no crisis in America. We are going about our business. People are getting up and going to work every day. Nothing is happening. We can take our time. The President-elect is not sworn in until January 20. We have time to make sure

the vote is accurate and fair. There is no need to pull the curtain down and say, no, we have to end it right now, when so much is in doubt, when the race is so close, and when a fair and accurate counting of the ballots may move it one way or the other.

I do not know; maybe Mr. Bush will win the election. As I have said, it is not important right now whether Mr. Bush wins or Mr. GORE wins. What is important is that every voter's vote in Florida is counted accurately and counted fairly, and whether that takes us 10 days or 12 days or 2 weeks, I believe the American people deserve to have those votes counted fairly and accurately.

Earlier today my colleague from Pennsylvania, Senator SPECTER, introduced a bill proposing the formation of a commission to examine methods to reduce the miscounting of votes at the polls. I have cosponsored that legislation with him because I believe we do need to look at this situation. I think we should carefully examine alternatives, given the experience we are now going through. We should examine the electoral college. Maybe it is not perfect, but I happen to think it may be more perfect than a direct election but I am willing to look at it. Perhaps we could allocate the elector's votes by electoral district as Nebraska and Maine have decided to do. Perhaps we should consider automatically giving these electoral votes to whoever wins the State, rather than electing individual electors who could actually vote against the will of the voters in their areas. But I am intrigued by having electoral votes determined by congressional districts as Maine and Nebraska do, as I said.

We ought to consider providing counties and States the necessary funds to assist them in modernizing and standardizing their voting methods. Although it may be somewhat more expensive—we don't know—there is voting technology that exists and is used today, or some of it may be not used, that could reduce voting errors and errors in vote tally. No technology will completely eliminate inaccuracies, but this election clearly demonstrates our current methods must be improved. That is why I joined with Senator SPECTER to cosponsor this legislation. I really do believe we need a more standardized methodology of voting machines in this country.

I asked my staff earlier, How many different kinds of voting machines do we have in this country? We have looked at this question and we do not know the answer.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. HARKIN. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. We do not know how many different kinds of voting machines there are in this country. Since

we are a mobile people, we move from one State to another, one area of a State to another, they can go and be totally confused by a voting machine that is different than what they had used the election before. So I wonder aloud about maybe standardizing voting machines throughout the country so, no matter where you go, you have the same voting machine that you had before.

I also believe we have to look at the latest technology—it exists—which could reduce to the barest possibility that a person does not vote for whom he or she wants to vote. There are interactive devices; I have seen them demonstrated myself, devices that any person with a disability, whether you are blind or deaf or whatever you might be, could use alongside anybody else. It wouldn't differentiate.

It would ensure that when you walked out of that booth, you knew exactly for whom you voted or for what you voted in terms of some of the resolutions and other items that are on the ballots.

If nothing else, we ought to be about this in the next session of Congress. I commend my colleague from Pennsylvania for introducing this legislation in this session, and I look forward to cosponsoring it with him when we meet again in January.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ATLANTIC SALMON LISTING DECISION

Ms. COLLINS. Mr. President, it is with great disappointment that I rise today to comment on the decision announced yesterday by the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to list as endangered Atlantic salmon in Maine. The decision represents an opportunity lost and reflects a process gone badly astray. It also raises serious questions about the mechanics of the Endangered Species Act, a law that I support, and how the Services have chosen to interpret and follow its dictates.

I rise also out of deep concern for the Atlantic salmon. The rivers of Maine once played host to magnificent runs of Atlantic salmon. Scores of fish returned each year to the streams where they were born after two- or three-year journeys out to sea, venturing thousands of miles off the coast of Maine, as far away as Newfoundland. The question is, "What is the best way to protect and restore these extraordinary fish?"

Yesterday's announcement is no small matter to my home State. It has serious implications for the aquaculture, blueberry, cranberry, and for-

est product industries that form the backbone of the economy in the most economically challenged area of Maine. The cruel irony underlying the decision is that Maine believed it had laid the issue to rest some three years ago when the Services withdrew a proposed listing and joined with the State in pursuing the Maine Salmon Conservation Plan. On December 15, 1997, the Services announced they were withdrawing their proposed listing of Atlantic salmon to pursue a "cooperative recovery effort spearheaded by the State of Maine." At that time Secretary of the Interior Bruce Babbitt announced:

We are unlocking the full potential of rivers in Maine and opening a new chapter in conservation history. The governor showed great leadership in forging this collaboration, which will enhance the ecology and economy of the state for years to come. The seven rivers will continue to attract more anglers, boaters and other sportsmen who will help grow and sustain new jobs and revenue as the rivers continue to stand as a model for the nation.

At the same time, Assistant Secretary of Commerce for Oceans and Atmosphere and NOAA Deputy Administrator Terry Garcia praised Maine's salmon conservation plan with these words:

This plan, which was developed by a state-appointed task force with input and advice from federal fisheries scientists, is an innovative effort to resolve the real world conflicts that occur when preserving a species clearly means rethinking traditional uses of a river. Our decision to protect salmon through this plan rather than through a listing under the Endangered Species Act highlights the ESA's flexibility and our willingness to consider state-designed plans.

Bruce Babbitt's and Terry Garcia's statements purported to highlight the ESA's flexibility and the Services' willingness to consider state-designed conservation plans. But the decision to list Atlantic salmon exposes the statements as hollow rhetoric and reflects a policy of inflexibility and of rejecting potentially effective state plans as alternatives to listing. In the end, Secretary Babbitt and Mr. Garcia reneged on their commitment to work with the state, within the framework of the state plan.

The Services have taken the implicit position that they are under no legally-binding obligation to abide by their earlier commitments to work with the state through the Maine Salmon Conservation Plan. In proposing the salmon listing, they abandoned the Plan, which the Services relied on to withdraw their 1995 proposal to list Atlantic salmon as threatened. Indeed, in withdrawing the proposed listing three years ago, the Services referred to the Plan as "a comprehensive collection of measures and protective actions that offer[s] a positive benefit to the species" and as a substitute for listing. Moreover, at the time, the Services signed a statement of cooperation with the State of Maine to support the Plan as the means toward restoring Atlantic salmon in the seven identified rivers.

In short, the Services gave every indication that they were committing to the Plan as an alternative to listing the salmon under the Endangered Species Act.

And that is precisely how the ESA is meant to operate. Listing determinations may not be made until the Services take "into account those efforts, if any, being made by any State * * * to protect such species." As one court recently put it, "The ESA specifically requires [the Services] to consider conservation efforts taken by a state to protect a species." By its own terms, the ESA also encourages states "to develop and maintain conservation programs." This means that the Services can and should rely on a competent state plan to avoid listing a species as threatened or endangered. In *Defenders of Wildlife v. Babbitt*, decided just last year, the court ruled that the Fish and Wildlife Service properly relied, in part, on a cooperative state/federal conservation plan to withdraw a proposed rule to list the flat-tailed horned lizard under the ESA. The court reasoned as follows:

The ESA was not implemented to discourage states from taking measures to protect a species before it becomes technically or legally "necessary" to list the species as threatened or endangered under ESA guidelines. Rather, states are encouraged to work hand in hand with other government agencies and conservation groups to implement evolving policies and strategies to protect wildlife over time. Though the ESA regulations may represent many species' last chance at survival, Congress surely did not intend to make it the only chance at survival.

The court's decision in the *Defenders of Wildlife* case hits the nail on the head. The ESA encourages state/federal cooperative efforts to protect and restore species before listing is required. This goal is supported further by the Services' own regulations, which authorize Candidate Conservation Agreements between the Services, states, and private entities. These agreements are "designed with the goal of precluding or removing any need to list the covered species," a goal shared by the Maine Salmon Conservation Plan. The Services' stated policies, too, profess to "[u]tilize the expertise of State agencies in designing and implementing prelisting stabilization actions * * * for species and habitat to remove or alleviate threats so that listing priority is reduced or listing as endangered or threatened is not warranted." The Services also are working to establish criteria for evaluating the certainty of implementation and effectiveness of formalized state conservation efforts in order to facilitate the development of such efforts. Again, the goal is to make listing a species as threatened or endangered unnecessary.

In short, the Services are well-aware that the ESA encourages cooperative, responsible conservation efforts such as Maine's plan. Three years ago Commerce Department official Terry Garcia celebrated the Plan as

"highlight[ing] the ESA's flexibility and [the Services'] willingness to consider state-designed plans." Today, the Plan has been rejected as not "adequately address[ing] the increasing threats salmon are facing from aquaculture, fish disease, habitat modification and catch-and-release fishing." No compelling record has been established indicating that the Plan has not met its interim goals. No request was made to modify the Plan. It was simply abandoned.

The Services contend that the proposed rule was the direct result of a status review that they conducted some time in 1999 and issued in October of that year. Yet, the Status Review is riddled with logical fallacies and unsupported conclusions. Moreover, its timing presents cause for concern.

Under the ESA, "species" is defined to include any "distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." In other words, a subpopulation of a given species can be listed under the ESA if, indeed, it is distinct and self-contained. In the current circumstance, the Services rely on a supposed distinct population segment of Atlantic salmon remarkable only for its genealogical diversity. The population segment proposed for listing includes salmon in eight Maine rivers—each of which has long been under an intensive federal stocking program—and, curiously, does not include Atlantic salmon stocked in the Merrimack and Connecticut Rivers.

As far back as 1979, Congress expressed great concern about the Services' misuse of distinct population segments. In the report accompanying the bill to re-authorize the Endangered Species Act that year, the Senate Committee on Environment and Public Works, while acknowledging there may be some instances where different population segments of a single species are appropriate stated, "Nevertheless, the committee is aware of the great potential abuse of this authority and expects the FWS to use the ability to list populations sparingly and only when the biological evidence indicates that such action is warranted." In this case, the population distinction proposed by the Services fails to meet the standard set by Congress due to both a long-running stocking effort and the use of a territorial boundary that has little to do with reproductive isolation.

The July 1999 Status Review documents a stocking effort in the Kennebec, Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias, and Dennys Rivers that dates back to 1871. Up until 1992, these various stocking efforts took no account of the river-specific genetics that form the basis of this proposed listing. In 1871, 1,500 parr from the Canadian province of Ontario were released into the Sheepscot River. That was the first of many instances of planned introduction of foreign salmon for the purpose of interbreeding into what the Services

now claim to be a genetically distinct population segment. Over eight years in the 1960s, 136,500 parr and 65,700 smolt—100 percent of which came from rivers in Canada—were stocked in the Sheepscot river. As late as 1990 and 1991, 13 percent of a substantial stocking effort used fish from New Brunswick.

In fact, from 1970 to 1992, while many substantial stocking efforts occurred putting millions of fry, parr, and smolt in these Maine rivers, not a single effort used salmon from the home river. In a stocking program 128 years old, only in the last seven years have river-specific salmon been used. For the Services now to try to claim that the fish in the eight rivers constitute a distinct population segment after this massive, century-long effort designed purposefully to introduce fish from other rivers and other countries into the eight is plainly disingenuous.

The Biological Review Team acknowledges that historic stocking practices may have had an adverse effect upon the genetic integrity of local stocks but claims that the limited stocking abilities of these early efforts minimized interference with the genetic purity of these river stocks. This is inconsistent with other assertions in the biological review.

The Services claim escaped aquaculture salmon pose a grave threat to the river-specific genetics of the salmon they propose to list. On the one hand, the Services argue that the enormous stocking of non-river specific species did not change the genetic composition of these stocks because the 128-year stocking effort was primitive, even in 1991. Yet, on the other hand, the Services claim an estimated 113 suspected adult escapees in the last ten years from aquacultural facilities in the Gulf of Maine pose a grave threat to genetic makeup of these river-specific salmon. Simply put, the Services' position defies logic.

The ESA requires that a listing decision be made on the basis of scientific data relating to the status of the species taking into account state protection and conservation efforts. Nowhere does the ESA permit a listing decision to be driven by a national interest group's lawsuit meant to force a listing to occur. Yet, it appears this sort of motivation may underlie the Services' decision to abandon the Plan. I wrote Secretary Babbitt and then-Secretary Daley requesting documents concerning the listing process and, in particular, the decision to conduct the Status Review. The Status Review appears to have commenced shortly after a lawsuit was filed to force an emergency listing of the salmon. The documents shed light on the Services' motivations in ordering the Status Review and, ultimately, deciding to list Maine's Atlantic salmon.

I would like to take a few minutes today to share with my Senate colleagues what I found when I examined the documents provided to me by the

Services, some pursuant to subpoena. I do so because the documents reflect a listing process that appears to have been badly out of step with the letter and spirit of the ESA.

It is important to keep some dates in mind. On December 18, 1997, the Services withdrew a proposed rule to list the very same Atlantic salmon under the ESA. Again, the withdrawal was made with much fanfare and was based in large part on the State's adoption of the Maine Salmon Conservation Plan. On January 27, 1999, Defenders of Wildlife and other plaintiffs filed suit against the Services claiming that the withdrawal was an arbitrary and capricious decision and seeking an emergency listing of the Atlantic salmon. Some time thereafter, the Services began a biological review of the status of Atlantic salmon in Maine. According to the Services, the review was completed in July 1999, though it was not released until October of the same year. In August 1999, a second lawsuit was filed against the Services. The two cases were eventually consolidated. Then, on November 17, 1999, the Services issued a proposed rule to list the Atlantic salmon as endangered. That proposed rule led to the recent listing decision.

More than anything else, the documents I requested show that concerns about losing the lawsuits influenced the Services ultimately to abandon the Maine Salmon Conservation Plan and to proceed toward an ESA listing. But the decision to abandon the plan was not easily reached. The documents show that, throughout much of 1999, the Services were in disagreement over whether to abandon the State plan. In a March 31, 1999 e-mail, for example, Department of Interior officials express dismay over the position of the Department of Commerce legal team, which purportedly believed that "the state should be given every opportunity to accomplish the conservation measures accepted under the 1997 non-listing decision." According to this same e-mail, the Commerce Department legal team felt that NMFS could "maintain a more productive relationship with the state if eventually forced to list by the court (as opposed to willfully listing)."

For its part, the Interior Department legal team apparently did not want NMFS to give the Maine plan a further chance. In an April 2, 1999 e-mail, an Interior Department lawyer wrote to a colleague at the Commerce Department that he had heard NOAA's general counsel had, "without consulting [the Fish & Wildlife Service], recommended that NMFS give the state a list of conservation plan deficiencies and a delay of several months to address them." The e-mail continues: "Today, I heard that NOAA Assistant Administrator for Oceans & Atmosphere Terry Garcia has picked up the idea and is running with it." The Interior Department lawyer went on to express his concern that giving Maine

time to implement and improve the plan "will appear political, and will be difficult to defend on scientific grounds."

Another Interior Department attorney expressed her opposition to the NMFS proposal more pointedly. She argued that giving the State of Maine more time to conserve and restore Atlantic salmon through its plan would risk a loss in the ongoing salmon litigation. In her words, "racking up another loss on conservation agreements" such as Maine's would "threaten" the Service's ability to rely on such plans in the future in lieu of listing.

Yet this view was not shared equally by each Service. It appears that the Commerce Department was more optimistic that the Maine Salmon Conservation Plan could be relied upon as an effective defense to the ongoing litigation. Another e-mail, dated March 30, 1999 and between two Interior Department attorneys, notes a NMFS official's view that the state plan could provide "a viable defense" in the ongoing litigation. The Interior Department attorney disagreed, citing "serious litigation risks" and the potential for setting an adverse precedent that could "extend to future actions in lieu of listing."

The Services' differing stances on whether to support or abandon the State plan lasted at least into August 1999, mere months before the listing proposal was issued. An e-mail between two Interior Department attorneys, and which appears to have been written in August 1999, notes that "NOAA management apparently still feels ESA listing over state opposition is wrong." The e-mail goes on to characterize a Commerce Department attorney's "best scenario" as the State of Maine agreeing to a "friendly listing, perhaps as threatened." The notion of a "friendly" threatened listing also appears in an August 17, 1999 e-mail between the same two Interior Department lawyers. The e-mail discusses the view of the Commerce Department attorney as follows: "The Services could either immediately propose a threatened listing and start working on a 4(d) rule, or propose as endangered and back off to a threatened listing if the state plays ball for the next few months."

These documents are disturbing because they show that legal considerations—and not "solely . . . the best scientific and commercial data available," as required by law—motivated the Services' decision to abandon the state plan and list Atlantic salmon in the Gulf of Maine as endangered. Granted, there is a clear link between science and the viability of the Maine Salmon Conservation Plan. The plan is either effective in conserving and restoring Atlantic salmon, or it is not. But the fact that the Services differed as to whether the state plan could be relied upon as an effective defense in the salmon suits makes the decision to

list appear more like a matter of litigation strategy than a matter of science. Indeed, in another e-mail, an Interior Department attorney explains the effort to complete the 1999 salmon status review as a means "to support whatever action [the Services] take next."

Ultimately, I believe that the Services should be able to rely on appropriate, effective state conservation plans in lieu of listing. At the same time, a state that makes the effort to craft an effective plan in cooperation with the Services, should be afforded assurances by the Services that the plan will not be abandoned, as Maine's plan was, after only one full year of implementation. A state should be encouraged to propose effective conservation plans and should be able to count on the Services' consistent support. A listing decision should not be affected by whether or not a state "plays ball." It should be affected by the actions a state has made and commits to make to conserve and restore a given species.

I wanted to speak to my colleagues today in the hope that the experience Maine has undergone will not be repeated. One potential solution was suggested five years ago, by President Clinton. In a 1995 white paper recommending changes to the Endangered Species Act, this administration wrote the following:

To encourage states to prevent the need to protect species under the ESA, the ESA should explicitly encourage and recognize agreements to conserve a species within a state among all appropriate jurisdictional state and federal agencies. If a state has approved such a conservation agreement and the Secretary determines that it will remove the threats to the species and promote its recovery within the state, then the Secretary should be required to concur with the agreement and suspend the consequences under the ESA that would otherwise result from a final decision to list a species. The suspension should remain in place as long as the terms or goals of the agreement are met.

Were such a standard adopted by policy or statute, Maine and other states would have the incentive to devise and fully implement effective conservation agreements. The alternative is what has taken place in Maine. A plan is announced with great fanfare and a listing proposal is withdrawn. One year and a lawsuit later, the Services reverse course, deeming the plan as unfit to rely upon as a litigation defense. This is the wrong result, and I would hope that during the next Congress, we can change the Services' policy or change the law to encourage responsible, effective state conservation plans.

Mr. President, in order to avoid taxpayer expense, I will not ask that the documents I referred to be printed in the RECORD. Instead, I will post the documents on my Web site. Thank you.

Mr. President, I yield the floor and, seeing no one seeking recognition, 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. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE IMPORTANCE OF GETTING IT RIGHT

Mr. DODD. Mr. President, I rise to share for a few moments this afternoon, before we adjourn for the day, if not for the week, some thoughts on the ongoing events, most obviously, the 2000 Presidential election.

I will talk about some of the mechanics of this and some of the comments made earlier in the day by my colleagues from Iowa and Pennsylvania, and some thoughts that they shared.

Before getting to the substance of that, I am a Democrat. Obviously, as a Democrat, I am hopeful AL GORE and my colleague from Connecticut, JOE LIEBERMAN, will be elected President and Vice President. Certainly, I fully understand how colleagues of a different political persuasion and other Americans hope that George Bush and Dick Cheney will win the election. I suspect maybe the Presiding Officer may share those views.

The most important belief everyone ought to have is that this process, at the end of it, whenever that comes—whether it is the end of this week or sometime over the next several days or weeks—that if it takes a little time, that is uncomfortable, but the most important conclusion is that it be one the American people support, even those who would have wished a different outcome in the election.

I served on the Select Committee on Assassinations 20 years ago in which we reopened the investigation of the assassinations of John Kennedy and Dr. Martin Luther King. What possible analogy could those two events have with this? Well, my colleague from Rhode Island and others may recall that the Warren Commission, which did the initial investigation into the tragic assassination of President Kennedy, was urged at the time to hurry up, to rush to get the job done, and they did. In retrospect, they did as well as they could have under the circumstances. But there was sufficient pressure to get the job done. Several years later, we had all sorts of questions raised that the Warren Commission did not address during the period of its consideration. I don't think we ever would have satisfied some of the elements who are always going to be convinced of conspiracy theories. But for an awful lot of other Americans, had the Commission taken a bit more time and gone through the facts a bit more carefully, we could have avoided the problems that ensued thereafter, including a whole new investigation of the assassination some 13 years after the events occurred in 1963.

The analogy is this: Obviously, we are not talking about that length of

time, but while I hear people urging a quick decision, a fast decision, we all understand, while we like clarity and we would like a decision made immediately, we need to place at least as much emphasis, if not more, on this decision being the right decision, that the decision is seen as being fair and just and an expression, as close as we can have in an election involving more than 100 million people across the country, of the will of the American people.

That is going to be difficult because of the closeness of the race. It is important to get this done quickly, but it is more important to get it done correctly.

We do not want a substantial percentage of the American public questioning the legitimacy of the 43rd President of the United States—whether that is AL GORE or Gov. George Bush. The American people should support that choice and have confidence that the choice was the right one. I hope that, while there are those clamoring for a quick decision, we get the right decision. Utilizing the courts and utilizing manual counting ought not to frighten people. Courts are used in our country when there is a dispute that can't be resolved, where facts and theories of law are in dispute. If that is the case, you go to court and try to get an answer. You would do that if you were talking about county commissioner or secretary of State. In the State of Florida, we should do no less with the office of the President of the United States. In the final analysis, the new President will look back and be grateful that we took the time to get it right; that we did not rush to a quick judgment here for the sake of what may appear to be sort of an early way to achieve a win.

Having said all of that, there will be much talk in the coming weeks about what went wrong here, what could have been done differently, and issues around the electoral college, whether we ought to keep it, abandon it, or reform it. Are there things we can do from a Federal standpoint to assist our respective States so we don't have the kind of confusion that has emerged here and regarding some of the ballot choices and equipment used to record people's votes? There will be all sorts of ideas shared.

My first suggestion and hope would be that people take time to step back and examine our current situation. I get nervous when people have quick solutions for an immediate problem that has emerged, such as here with this close election. Let's not forget that we have been a republic for 211 years. This will be the fourth such election out of 43 Presidential races where there has been a close race, where the popular vote and the electoral votes—and we don't know the final outcome of this one—have a different result.

Before we decide we want to radically abandon this system, my strong suggestion to my colleagues and others who will be commenting, is to take

some time to think it through carefully and not rush out and be offering proposals and bills that we may come to regret. There have been some 200 proposals made to amend the Constitution regarding the electoral college over the last 200 years, many of which have been suggested over the last 40 years. Before we jump to these proposals, I suggest that we think them through.

I listened with interest earlier this day to our colleague from Pennsylvania, Senator SPECTER, discuss two issues that are obviously timely and important ones at this moment about reform in the electoral college. I wish to address those issues for a few minutes. First, let me join my colleague from Iowa, Senator HARKIN, in congratulating Senator SPECTER for introducing the concept of a bipartisan commission to examine whether we might—at least in federal elections—develop more accurate and uniform methods of recording and reporting the votes cast by the citizens of our Nation. I know at least one newspaper in the country—the New York Times—has already editorialized on this topic in favor of modernizing what many consider to be a ballot system that is in many respects and in many areas of the country fairly archaic in terms of its technological sophistication. I will join Senator SPECTER and others in developing a more thoughtful approach to this dilemma. It is a dilemma because control of elections has been left to the decision of States across the country. The federal role is somewhat limited in this, to put it mildly. It is more a question of how we can work with the States in a cooperative fashion when it comes to federal elections—elections beyond mere consideration for the offices in the respective States and counties. I think we have a legitimate interest. Certainly, that has been borne out by the events of the last week in this country. Certainly, we have seen, as I say, in the last week issues raised that none of us could imagine would have been brought up prior to the results on Tuesday night.

I think the events of the past week have shaken many Americans out of a false sense that our system—or should I say systems—of tabulating ballots is absolutely error free. It never has been perfect. No one disputes that the hallmark of our system—namely free and fair elections—is as strong as it has ever been.

Indeed, if we have learned anything over the past week, it is the truth of the maxim that it is as ingrained in our consciousness as the Pledge of Allegiance or the Preamble of the Declaration of Independence: In America, every citizen counts.

That is a mantra we hear over and over again: Every citizen counts. Every citizen has a part to play in choosing how we shall be governed. Many of us have said over the last week: Don't ever let me hear anybody say again that every vote doesn't count, or a single vote doesn't count. You have seen

that the margins in the State of New Mexico in the Presidential race may be down to 17 or 20 votes. We had a congressional race in my State a few years ago where out of 200,000 votes cast, 4 ballots determined who the Congressman of the Second Congressional District would be. So we all say every vote counts, every citizen counts.

While our system may be the fairest in the world, we have been reminded over the past week that it is not infallible. Few areas of governance are as decentralized as voter administration. According to a news report today, election decisions are made not only by each of the 50 States but by more than 3,000 counties and towns, where they have separate rules outside of the State rules. So 3,000 different jurisdictions in this country have something to say about how elections are conducted in America. The methods of voting vary widely from jurisdiction to jurisdiction—from the marking of paper ballots to the use of the Internet, as we have seen.

By far the most common form of voting in our Nation remains the punching of paper ballots. It is estimated that some 40 percent of voters utilized that method to vote on election day. This is so despite the evidence that paper ballots are more vulnerable, than any other voting system, to voter error.

We have all become familiar in the past six days with the variety of ways a ballot now may be marked—language I never heard before, terminology I never heard mentioned. All of a sudden, we have all become familiar with things called “chads” and parts of chads. I never heard of a ballot being “pregnant,” but I now know that it can be in this country, which is a startling revelation. So we have heard a new vernacular in our society. People everywhere are learning about the variations of the chad: the “pregnant” chad, the “dimpled” chad, the “hinged” chad, the “swinging” chad. These are all words that those who may have been involved in the arcane business of voter issues know, but for most Americans these are new words.

Beyond the punching of a paper ballot, some 20 percent of voters use mechanical lever machines that are no longer made. Another 25 percent fill in a circle, a square, or an arrow next to the candidate or ballot question of their choice. Only about 10 percent use a computer screen or other electronic means to have their votes recorded automatically.

One consequence of using a patchwork system where most votes are cast by paper ballot is that errors can affect outcomes. That is what the people and officials of Florida are obviously trying to contend with even as I speak on the floor of the United States Senate this afternoon.

Another consequence, however, should be just as much a cause for concern, and that is that in a great many jurisdictions the voting process might not only be prone to a significant risk

of error, but a significant risk of delay on election day as well. Throughout the country during the past election, we heard a great many reports of long lines at the polls. One hour, two hours, three hours. People were waiting a long, long time in many parts of the Nation to cast their ballots.

Certainly, the vast majority of those who did endure these waits did so with patience and a deep sense of the importance of the moment. However, the question we must ask ourselves is what we might try to do to shorten those lines. We must recognize that, in an era when we can pay bills, buy goods and services, and do many other things by computer, fewer and fewer Americans are waiting in line for anything anymore.

As long lines continue to become an anachronism in other parts of our lives, voters' patience on election day can also diminish. If their patience diminishes, then more may choose not to vote, and that will be the worst result of all.

We must realize that—much as they might want to—many local jurisdictions simply lack the resources to modernize their voting systems. One county in a State of the eastern seaboard has records dating from the 1800s. Of 890,000 people on that county's voting rolls, a recent study found that 775,000 were either dead or living someplace else. I will repeat that. In one jurisdiction, of the 890,000 people on the county's voting rolls, 775,000 were either dead or living in another jurisdiction. That fact, and others, underscore that voting recordkeeping and equipment is expensive and also outdated. That is a simple and unavoidable fact for many communities that struggle to find resources to meet the daily needs of their people for police, fire protection, trash collection, and other services.

So I hope that as we move forward or toward the conclusion of this Congress and the commencement of the 107th Congress, and we all wait for January 20th, where a few feet from here a new President will be sworn into office as the 43rd President—during this time—and this is why we should do it now—we give serious consideration to the concept of a bipartisan commission to examine how we might encourage more accurate methods of recording votes by the citizens of our Nation.

I also hope that such a commission would provide guidance as to how we might assist communities in finding the means to do so. This is a valuable role that we can play to assist these counties and local communities with resources that will enable them to modernize the voting equipment that they lack today. I look forward to working with the Senator from Pennsylvania, the Senator from Iowa, and others—I am sure there will be many more—who are interested in working on this issue and giving it some serious attention.

Secondly, let me enter the discussion on the electoral college. My colleagues,

Senator DURBIN, Senator HARKIN, Senator TORRICELLI, as well as Senator SPECTER and others, have discussed this matter in the last few days. On talk radio, in diners, in taxi cabs, and anywhere you want to go, you can now get into a deep conversation about the electoral college. We have all become familiar in the last few days. Many people were unaware that Presidents have been elected by the electoral college since the first days of the republic. So there has been educational value to this confusion over who the next President will be.

The electoral college is an arcane institution in the minds of many, but it has played a very important and valuable role. Certainly now is a good time to consider the role of the electoral college in electing American Presidents. I hope that we will proceed, as I said at the outset—with caution—on this matter.

I would be concerned, frankly, about abolishing the electoral college. Those who have urged us to do so ought to pause, step back, and give some thought to what they have suggested. If you think it is confusing in Florida today, imagine the difficulty in deciding a Presidential election as close as this, with ballots in contention and people going to court not in one State, but potentially in 50 States? So while I think the electoral college may need serious reform, we ought to be careful about abandoning it.

Notwithstanding the intentions of the Founders, many which remain valid, the electoral college continues to serve, in my view, an important function in our present day election system. While we elect one President for the Nation, it reminds us that we do so as a republic of States, not as a single political unit. Were we to elect the President solely on the basis of the popular vote, Presidential candidates would have little incentive, in my view, to visit with the people who live outside the major population centers. State boundaries would, for purposes of a Presidential election, be virtually wiped out, and candidates would have little incentive to learn from a State's officials and citizens about the concerns particular to their jurisdiction or State. So the consequences of abolishing the electoral college should be considered with grave, grave care. I am aware that there have been numerous proposals to modify the electoral college during the course of history. As I mentioned, the 12th amendment to the Constitution was ratified June 15, 1804. It represents one of those proposals and, today, the only successful one. One proposal was put forward in the 87th Congress, I might point out, by a Senator from Connecticut who happened to be my father, I discovered the other day. He offered it in January of 1961 after the Kennedy and Nixon election. He proposed then—and admitted there was nothing unique about his ideas; they were ones that were incorporated from the various other proposals that were suggested. So it was

not an original set of ideas coming off that election which was a close election as well—he proposed a system where each State's electors would be apportioned to the candidates in proportion to the candidates' percentage share of the State's popular votes.

Nebraska, Iowa, and Maine do that today. In fact, States could do that on their own initiative. In fact, it would not require a change in the Constitution if the various States wanted to modify how they would allocate their electoral votes. Perhaps we should consider that proposal or some variation on it.

As I said, there were many proposals offered. Perhaps we should also consider the two States that do not apportion the votes on a winner-take-all basis: Maine and Nebraska. Perhaps we should consider—as Maine does now—apportioning its votes according to which candidate wins which congressional districts in a given State. That has had some value. In fact, you may recall in the waning days of this election, the Vice Presidential candidate, JOE LIEBERMAN, my colleague from Connecticut, made a special trip to Maine to campaign in one congressional district up there that was close. It turned out that trip he made had some value. It was worth one electoral vote. If you apportion these either by congressional district or by how many votes the respective candidates received, I could see Democrats going to places such as Utah, Arizona, Georgia, Mississippi—places in which we have not done very well in Presidential campaigns. I could see Republicans coming to Connecticut, Rhode Island, or Massachusetts where they may not get the winning margin, but they might get 40 percent, 45 percent. So it is worth it to go after those electoral votes.

Why is that good government? Because it is important that these candidates come to our respective States, learn about the people's concerns. It makes it more competitive, gets people involved; their vote means something, not only a popular vote but also an electoral vote.

So I think reform of the electoral college, and there are a variety of other ideas, is worth while. But again, I caution against the idea that somehow abandoning the system would serve the best interests of the country for over two hundred years.

These are important matters. They go to the heart of our democratic system, the electoral college, how we vote, how ballots are counted. I happen to believe we are going to come out of this in good shape. I know there are those calling this a constitutional crisis. It is not a constitutional crisis. The system is working. We are confronted with a unique situation, but the Founding Fathers and the framers of the Constitution in their wisdom anticipated there would be difficulties with Presidential elections. They set up a series of safeguards. They are not perfect. Some need to be changed, but

they work. We are now confronting one unique in the two-century history of our Nation, but we will come out of this well. There are good people in Florida, good citizens who care about this, who will do the right thing before this process is concluded.

On January 20, we will gather on the west front of this majestic building and we will welcome with good heart and good spirit and great cheer the 43rd President of the United States. That President will be a very humbled individual.

There will be no announcements of mandates in this election. Maybe the American people showed their infinite wisdom collectively by saying by dividing this as evenly as we can, not only in this Chamber and the House, but the Presidential election, maybe you ought to try to work these things out; get together and resolve some of the outstanding problems we face every day such as a prescription drug benefit, a real Patients' Bill of Rights, improving the country's educational system, myriad transit problems, just to name a few. Those are the problems Americans wrestle with every day and they want to see us wrestle with them here and come up with some answers.

They may have just sent us the method and means by which we will achieve that in this coming Congress by making this election as close as it is so no one can claim they have a majority of Americans' solution to this problem. But they did speak with almost one resounding single voice. We ought to take a look at the electoral process and then get about the business of going to work on America's problems. By making this election as close as they have, I suggest they may have offered us the opportunity and means by which we could do in the coming Congress what we failed to do in the one we are now winding down.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

WORLD WAR II MEMORIAL GROUNDBREAKING CEREMONY

Mr. WARNER. Mr. President, last Saturday, I, along with tens of thousands of others, gathered along the Mall to observe the groundbreaking ceremony for the World War II memorial. It was a most moving and inspirational moment for all who attended and, indeed, for the untold millions who followed through the medium of television. All of the speakers at this ceremony were clearly inspired by the solemnity of the occasion.

I ask unanimous consent that the remarks of all the speakers in attendance

be printed in today's RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. WARNER. Mr. President, I should now like to list those speakers in the order in which they took part in this program.

First, World War II Chaplain and retired Archbishop Phillip M. Hannan, who gave a most inspirational invocation. He is a highly decorated combat veteran of World War II. What a marvelous spirit he has. He set the tone for all others who followed;

Gen. Fred Woerner, Chairman, American Battle Monuments Commission;

Ohio Congresswoman MARCY KAPTUR, who launched the effort in Congress to authorize the national World War II memorial. Her initial efforts go as far back as 1987;

Luthur Smith, a World War II Tuskegee Airman;

I am privileged to have been associated with the men and women of the Armed Forces through much of my life, but his rendition of his last mission, and how he was shot down, and how the hand of providence literally extracted him from a flaming aircraft and brought his wounded body to ground—it brought tears to the eyes of all present. That is worth the entire statement to be put in the RECORD today.

Tom Hanks, actor, who starred in "Saving Private Ryan," has done so much work to make this memorial possible.

Senator Bob Dole, our beloved former colleague and the National Chairman, World War II Memorial Campaign, spoke with such moving eloquence. He, of course, I believe, deserves most special recognition for his efforts.

Fredrick W. Smith, founder and CEO, FedEx Corporation and National Co-chairman, World War II Memorial Campaign, also a veteran, not of World War II but of subsequent campaigns;

Ambassador F. Hadyn Williams, Chairman, American Battle Monuments Commission, World War II Memorial Committee.

William Cohen, our former Senate colleague, and current Secretary of Defense; and the concluding remarks, again, a very stirring and eloquent statement by our President, William Jefferson Clinton.

In addition to those great Americans who spoke at the ceremonies, there were others there. I mention just those in Congress: our distinguished President pro tempore, STROM THURMOND; from the House of Representatives, Representatives JOHN DINGELL, BENJAMIN GILMAN, RALPH REGULA, BOB STUMP, JOE SKEEN, and, of course, former Representative Sonny Montgomery, who has done so much through the years for the men and women of our Armed Forces.

I again wish to give very special recognition and, indeed, it was by all present, to Senator Bob Dole for his inspired, relentless, and untiring efforts to make this memorial possible.

This memorial will be an educational reminder for future generations to the enormous commitment, at home as well as in the uniformed ranks, of the people of our great Nation. As Senator Dole often said throughout his efforts on behalf of this memorial: What would our world be today if freedom had not prevailed, had there not been the enormous commitment throughout the United States and, indeed, also, in our allies. What if freedom had not prevailed and the war had been lost? What would the world be today? That will be the question that those who visit for decades to come should ask of themselves as they quietly reflect on this magnificent structure and the symbolism of that effort.

EXHIBIT 1

ADDRESSES DELIVERED AT THE NATIONAL WWII MEMORIAL GROUNDBREAKING CEREMONY, NOVEMBER 11, 2000

REMARKS OF GENERAL FRED WOERNER, CHAIRMAN, AMERICAN BATTLE MONUMENTS COMMISSION

Mr. President, distinguished guests, honored World War II veterans, ladies and gentlemen: On behalf of the American Battle Monuments Commission, I welcome you to the official groundbreaking ceremony for the National World War II Memorial.

There are many here today I want to publicly recognize. First and foremost, our special guests, the members of the GI Generation—whose sacrifice and achievement we will commemorate on this magnificent site.

Mr. President, we are honored by your presence. You, of course, are no stranger to this project, having stood here with us five years ago today to dedicate this sacred ground for the memorial to America's World War II generation.

Ambassador Haydn Williams, ABMC commissioner and chairman of the World War II Memorial Committee.

Senator Bob Dole, national chairman of our fund-raising campaign, whose leadership personifies the generation we honor.

His national co-chairman, Frederick W. Smith, founder and CEO of FedEx Corporation. Together, their energy and commitment to the campaign brought remarkable results.

Ohio Congresswoman Marcy Kaptur, who launched the effort to authorize the National World War II Memorial in 1987.

Members of the President's cabinet: Secretary of Defense William Cohen, Secretary of Health and Human Services Donna Shalala, Secretary of Transportation Rodney Slater, Acting Secretary of Veterans Affairs Hershel Gober, and the White House Chief of Staff, John Podesta.

Two-time academy award winning actor Tom Hanks donated his time and considerable talent to serve as our national spokesman, taking a simple message to the American people: "It's Time to Say Thank You."

Friedrich St. Florian, design architect of the National World War II Memorial, who has led the creative design effort.

Pete Wheeler, Commissioner of Veterans Affairs for the State of Georgia and chairman of the Memorial Advisory Board.

Jess Hay, a member of the Memorial Advisory Board and chairman of the World War II Memorial Finance Committee.

Luther Smith, who flew with the Armed Tuskegee Airmen, and served as a member of our Architect-Engineer Evaluation Board.

World War II chaplain and retired Archbishop Philip M. Hannan, who has graced us with his inspirational invocation.

Joining the official party on stage are the commissioners and secretary of the American Battle Monuments Commission, and members of the Memorial Advisory Board.

We're delighted to welcome the former Secretary of Transportation, Secretary of Labor and President of the American Red Cross, Elizabeth Dole.

Members of Congress, without whose bipartisan support this memorial would not be possible. There are 22 World War II veterans still serving. We are honored to have seven of these vets with us today: Senators Strom Thurmond and John Warner, and Representatives John Dingell, Benjamin Gilman, Ralph Regula, Bob Stump, and Joe Skeen.

We offer a special welcome to former Representative Sonny Montgomery, whose name will forever be linked to veterans benefits and programs.

We're also pleased to acknowledge the presence of: The Mayor of the District of Columbia, Anthony Williams, Secretary of the Army, Louis Caldera, Vice Chairman of the Joint Chiefs of Staff, General Richard Myers, Chief of Staff of the Army, General Eric Shinseki, Coast Guard Commandant, Admiral James Loy, and Former Chairmen of the Joint Chiefs of Staff, Admiral William Crowe and General Colin Powell.

The organizations that guided our efforts over the past several years; Chairman J. Carter Brown and commissioners of the Commission of Fine Arts, Acting Executive Director Bill Lawson and members of the National Capital Planning Commission, Director Robert Stanton and associates from the National Park Service, Commissioner Bob Peck and associates from the General Services Administration, and Leo Daly, whose international firm serves as the project architect/engineer.

Finally, I'm pleased to welcome in our audience: Susan Eisenhower, representing her grandfather, President Dwight D. Eisenhower, the Supreme Allied Commander in World War II, the grandson of Sir Winston Churchill—Winston S. Churchill, World War II Medal of Honor recipient and former governor of South Dakota—Joe Foss, and baseball greats Bob Feller, Warren Spahn, Tommy Henrich, Bert Shepard and Buck O'Neil—all veterans of the Second World War.

Would all these distinguished guests in the audience please stand to be recognized.

If I had the time, I would name every one of you with us today, for you are all heroes in the eyes of the nation. It is a privilege for the American Battle Monuments Commission to host this ceremonial groundbreaking in your honor.

REMARKS OF THE HONORABLE MARCY KAPTUR

Reverend Clergy, Mr. President, Honored Guests All. We, the children of freedom, on this first Veterans' Day of the new century, gather to offer highest tribute, long overdue, and our everlasting respect, gratitude, and love to the Americans of the 20th century whose valor and sacrifice yielded the modern triumph of liberty over tyranny. This is a memorial not to a man but to a time and a people.

This is a long-anticipated day. It was 1987 when this Memorial was first conceived. As many have said, it has taken longer to build the Memorial than to fight the war. Today, with the support of Americans from all walks of life, our veterans service organizations and overwhelming, bipartisan support in Congress, the Memorial is a reality.

I do not have the time to mention all the Members of Congress who deserve thanks for their contributions to this cause, but certain Members in particular must be recognized. Rep. Sonny Montgomery, now retired, a true

champion of veterans in the House, and Senator Strom Thurmond, our unflinching advocate in the Senate, as well as Rep. Bill Clay, of Missouri and two retired Members, Rep. Henry Gonzalez and Senator John Glenn.

At the end of World War I, the French poet Guillaume Apollinaire declaring himself "against forgetting" wrote of his fallen comrades: "You asked neither for glory nor for tears." Five years ago, at the close of the 50th anniversary ceremonies for World War II, Americans consecrated this ground with soil from the resting places around the world of those who served and died on all fronts. We, too, declared ourselves against forgetting. We pledged then that America would honor and remember their selfless devotion on this Mall that commemorates democracy's march.

Apollinaire's words resonated again as E.B. Sledge reflected on the moment the Second World War ended: ". . . sitting in a stunned silence, we remembered our dead . . . so many dead . . . Except for a few widely scattered shouts of joy, the survivors of the abyss sat hollow-eyed, trying to comprehend a world without war."

Yes. Individual acts by ordinary men and women in an extraordinary time—one exhausting skirmish, one determined attack, one valiant act of heroism, one dogged determination to give your all, one heroic act after another—by the thousands—by the millions—bound our country together as it has not been since, bound the living to the dead in common purpose and in service to freedom, and to life.

As a Marine wrote about his company, "I cannot say too much for the men . . . I have seen a spirit of brotherhood . . . that goes with one foot here amid the friends we see, and the other foot there amid the friends we see no longer, and one foot is as steady as the other."

Today we break ground. It is only fitting that the event that reshaped the modern world in the 20th century and marked our nation's emergency from isolationism to the leader of the free world be commemorated on this site.

Our work will not be complete until the light from the central sculpture of the Memorial intersects the shadow cast by the Washington Monument across the Lincoln Memorial Reflecting Pool and the struggles of freedom of the 18th, 19th, and 20th centuries converge in one moment. Here freedom will shine. She will shine.

This Memorial honors those still living who served abroad and on the home front and also those lost—the nearly 300,000 Americans who died in combat, and those, the millions, who survived the war but who have since passed away.

Among that number I count my inspired constituent Roger Durbin of Berkey, Ohio, a letter carrier who fought bravely with the Army's 101st Armored Division in the Battle of the Bulge and who, because he could not forget, asked me in 1987 why there was no memorial in our nation's Capitol to which he could bring his grandchildren. Roger is with us spiritually today. To help us remember him and his contribution to America, we have with us a delegation from his American Legion Post, the Joseph Diehn Post in Sylvania, Ohio, and his beloved family, his widow, Marian, his granddaughter, Melissa, an art historian and member of the World War II Memorial Advisory Board.

This is a memorial to heroic sacrifice. It is also a memorial for the living—positioned between the Washington Monument and Lincoln Memorial—to remember how freedom in the 20th century was preserved for ensuing generations.

Poet Keith Douglas died in foreign combat in 1944 at age 24. In predicting his own end,

he wrote about what he called time's wrong-way telescope, and how he thought it might simplify him as people looked back at him over the distance of years. "Through that lens," he demanded, "see if I seem/substance or nothing; of the world/deserving mention, or charitable oblivion . . ." And then he ended with the request, "Remember me when I am dead/and simplify me when I'm dead." What a strange and striking charge that is!

And yet here today we pledge that as the World War II Memorial is built, through the simplifying elements of stone, water, and light, there will be no charitable oblivion. America will not forget. The world will not forget. When we as a people can no longer remember the complicated individuals who walked in freedom's march—a husband, a sister, a friend, a brother, an uncle, a father—when those individuals become simplified in histories and in family stories, still when future generations journey to this holy place, America will not forget. Freedom's children will not forget.

REMARKS OF LUTHER SMITH, WORLD WAR II
TUSKEGEE AIRMAN

Mr. President, Senator Dole, General Woerner, distinguished guests. It's a thrill to be here this afternoon—to be among so many of my fellow World War II veterans.

Today's groundbreaking is a long-awaited milestone in the evolution of the National World War II Memorial. For today we celebrate the approval of Friedrich St. Florian's memorial design after a long and spirited public review process.

I had the privilege to serve as a member of the Architect-Engineer Evaluation Board that judged the 403 entries in the national design competition. We and the members of the Design Jury set out to select a design architect whose vision for the memorial matched the scale and significance of the event it commemorates as well as the classic beauty and nobility of the national landmarks that soon will be its neighbors.

The elegance and sensitivity of the approved design is proof that we selected the right person for this monumental task.

Fifty-nine years ago I was in my early twenties, as were many of you. Young, eager, wondering what the future held for me is Des Moines, Iowa. Little did I know that soon I would be flying with a group of men that would become known as the Tuskegee Airmen.

What a proud time for a young man in 1940's America. To be allowed to fly and fight for his country. To be part of an effort that united the nation in a way we hadn't seen before and haven't seen since.

I flew 133 missions in a combination of fighter aircraft. It was on my final scheduled mission, in October 1944, that my P-51 Mustang was brought down. We were strafing oil tank cars when a ball of fire erupted directly in front of me. I was in and out of the flames in less than a second, but the explosion blew out my cockpit windows, buckled the wing surfaces and destroyed much of the tail assembly. I was uninjured, but 600 miles from home in a crippled aircraft.

Flames soon enveloped the engine. I wanted to roll into an inverted position and fall free before opening my parachute, but I went into a spin and fell partially out of the cockpit. My right foot became wedged between the rudder pedal and brake, so I couldn't get into the cockpit or out.

The next thing I recall is looking up at a badly torn parachute. Somehow, I had pulled the ripcord while trapped semi-conscious in the aircraft. The opening parachute pulled me free, saving my life but fracturing my right hip.

I was falling too fast, head first, connected to the parachute by just one strap attached

to my fractured hip. Unconsciousness again, I awoke crashing through trees. My chute caught in the top branches and kept me from smashing into the ground. I spent the last seven months of the war in German hospitals and the Stalag 18A prison camp. My injuries required 18 operations and three years of hospitalization.

I was lucky. I lived to tell the story. More than 400,000 Americans never came home to tell their stories. And more than 10 million of the 16 million that served in uniform are no longer with us to tell their stories.

I feel blessed to have had the opportunity to serve my country during her time of need, and to have played a small but rewarding role in the effort to establish a memorial to that time.

I look forward to the day when I can bring my grandchildren here to our National Mall, to walk among the landmarks of our young democracy, to enter one of the great gathering places in this special city—the World War II Memorial plaza—and share with them our nation's newest symbol of freedom.

The members of my generation hold within them thousands of stories like the one I shared with you today—stories of events that unfolded many years ago. The telling of those stories will end all too soon, but the lessons they teach must be remembered for generations to come.

The World War II Memorial will keep those lessons alive.

REMARKS OF TOM HANKS

In December of 1943, the Second World War appeared to have no end. The Invasion of Normandy was half a year away. The landing on Guam, the liberation of Paris and naval victories in the Philippine Sea would not happen until the following summer and fall. Americans at home had yet to hear of the Battle of the Bulge or Iwo Jima. American Soldiers had yet to touch the Siegfried Line or come anywhere near crossing the Rhine River.

The final cost of an allied victory was incalculable. The list of those names to be lost forever, not nearly complete.

In December of 1943, a war correspondent named Erine Pyle sat in a tent outside of Naples and wrote the following on his typewriter:

At the front lines in Italy—in this war I have known a lot of officers who were loved and respected by the soldiers under them. But never have I crossed the trail of any man as beloved as Captain Henry T. Waskow, of Belton, Texas.

Captain Waskow was a company commander in the 36th division. He had been in this company since long before he left the States. He was very young, only in his middle 20s, but he carried in him a sincerity and gentleness that made people want to be guided by him.

"After my own father, he comes next," a sergeant told me. "He always looked after us," a soldier said. "He'd go to bat for us every time." "I've never known him to do anything unkind," another one said. I was at the foot of the mule trail the night they brought Captain Waskow down. The moon was nearly full at the time, and you could see far up the trail, and even part way across the valley. Soldiers made shadows as they walked.

Dead men had been coming down the mountain all evening, lashed onto the backs of mules. They came lying belly down across the wooden packsaddle, the heads hanging down on the left side of the mule, their stiffened legs sticking awkwardly from the other side, bobbing up and down as the mule walked.

The Italian mule skinnners were afraid to walk beside dead men, so Americans had to

lead the mules down that night. Even the Americans were reluctant to unlash and lift off the bodies, when they go to the bottom, so an officer had to do it himself and ask others to help.

The first one came early in the morning. They slid him down from the mule, and stood him on his feet for a moment. In the half light he might have been merely a sick man standing there leaning on the other. Then they laid him on the ground in the shadow of the stone wall alongside the road.

I don't know who that first one was. You feel small in the presence of dead men and ashamed of being alive, and you don't ask silly questions.

We left him there beside the road, that first one, and we all went back into the cowshed and sat on watercans or lay on the straw, waiting for the next batch of mules. Somebody said the dead soldier had been dead for four days, and then nobody said anything more about him. We talked for an hour or more; the dead man lay off alone, outside in the shadow of the wall. Then a soldier came into the cowshed and said there were some more bodies outside. We went out into the road. Four mules stood there in the moonlight, in the road where the trail came down off the mountain. The soldiers who led them stood there waiting.

"This one is Captain Waskow," one of them said quickly.

Two men unlash his body from the mule and lifted it off and laid it in the shadow beside the stone wall. Other men took the other bodies off. Finally, there were five lying end to end in a long row. You don't cover up dead men in the combat zones. They just lie there in the shadows until somebody else comes after them.

The uncertain mules moved off to their olive orchards. The men in the road seemed reluctant to leave. They stood around, and gradually I could sense them moving, one by one, close to Captain Waskow's body. Not so much to look, I think, as to say something in finality to him and to themselves. I stood close by and I could hear.

One soldier came and looked down, and he said out loud: "God damn it!" That's all he said, and then he walked away. Another one came, and he said, "God damn it to hell anyway!" He looked down for a few last moments and then turned and left.

Another man came. I think he was an officer. It was hard to tell officers from men in the half light, for everybody was grimy and dirty. The man looked down into the dead captain's face and then spoke directly to him, as though he were alive:

"I'm sorry, old man."

Then a soldier came and stood beside the officer and bent over, and he too spoke to his dead captain, not in a whisper but awfully tenderly, and he said:

"I sure am sorry, sir."

Then the first man squatted down, and reached down and took the captain's hand, and he sat there for a full five minutes holding the dead hand in his own and looking intently into the dead face. And he never uttered a sound all the time he sat there.

Finally he put the hand down. He reached up and gently straightened the points of the captain's shirt collar, and then he sort of rearranged the tattered edges of his uniform around the wound and then he got up and walked away down the road in the moonlight, all alone.

The rest of us went back into the cowshed, leaving the five dead men lying in the line end to end in the shadow of the low stone wall. We lay down on the straw in the cowshed, and pretty soon we were all asleep.—Ernie Pyle. *Italy. December 1943.*

REMARKS OF SENATOR BOB DOLE, NATIONAL CHAIRMAN, WWII MEMORIAL CAMPAIGN

Mr. President, Tom, and Fred, and our countless supporters and other guests. I am honored to stand here as a representative of the more than 16 million men and women who served in World War II. God bless you all.

It has been said that "to be young is to sit under the shade of trees you did not plant; to be mature is to plant trees under the shade of which you will not sit." Our generation has gone from the shade to the shadows so some ask, why now—55 years after the peace treaty ending World War II was signed aboard the USS *Missouri*. There is a simple answer: because in another 55 years there won't be anyone around to bear witness to our part in history's greatest conflict.

For some, inevitably, this memorial will be a place to mourn. For millions of others, it will be a place to learn, to reflect, and to draw inspiration for whatever tests confront generations yet unborn. As one of many here today who bears battle scars, I can never forget the losses suffered by the greatest generation. But I prefer to dwell on the victories we gained. For ours was more than a war against hated tyrannies that scarred the Twentieth Century with their crimes against humanity. It was, in a very real sense, a crusade for everything that makes life worth living.

Over the years I've attended many a reunion, and listened to many a war story—even told a few myself. And we have about reached a time where there are few around to contradict what we say. All the more reason, then, for the war's survivors, and its widows and orphans, to gather here, in democracy's front yard to place the Second World War within the larger story of America. After today it belongs where our dwindling ranks will soon belong—to the history books.

Some ask why this memorial should rise in the majestic company of Washington, Jefferson, Lincoln and Roosevelt. They remind us that the Mall is hallowed ground. And so it is. But what makes it hallowed? Is it the monuments that sanctify the vista before us—or is it the democratic faith reflected in those monuments? It is a faith older than America, a love of liberty that each generation must define and sometimes defend in its own way.

It was to justify this idea that Washington donned a soldier's uniform and later reluctantly agreed to serve as first president of the nation he conceived. It was to broadcast this idea that Jefferson wrote the Declaration of Independence, and later as president, doubled the size of the United States so that it might become a true empire of liberty. It was to vindicate this idea that Abraham Lincoln came out of Illinois to wage a bloody yet tragically necessary Civil War, purging the stain of slavery from freedom's soil. And it was to defend this idea around the world that Franklin D. Roosevelt led a coalition of conscience against those who would exterminate whole races and put the soul itself in bondage.

Today we revere Washington for breathing life into the American experiment—Jefferson for articulating our democratic creed—Lincoln for the high and holy work of abolition—and Roosevelt for upholding popular government at home and abroad. But it isn't only presidents who make history, or help realize the promise of democracy. Unfettered by ancient hatreds, America's founders raised a lofty standard—admittedly too high for their own generation to attain—yet a continuing source of inspiration to their descendants, for whom America is nothing if not a work in progress.

If the overriding struggle of the 18th century was to establish popular government in

an era of divine right; if the moral imperative of the 19th century was to abolish slavery; then in the 20th century it fell to millions of citizen-soldiers—and millions more on the home front, men and women—to preserve democratic freedoms at a time when murderous dictators threatened their very existence. Their service deserves commemoration here, because they wrote an imperishable chapter in the liberation of mankind—even as their nation accepted the responsibilities that came with global leadership.

So I repeat: what makes this hallowed ground? Not the marble columns and bronze statues that frame the Mall. No—what sanctifies this place is the blood of patriots across three centuries, and our own uncompromising insistence that America honor her promises of individual opportunity and universal justice. This is the golden thread that runs throughout the tapestry of our nationhood—the dignity of every life, the possibility of every mind, the divinity of every soul. This is what my generation fought for on distant fields of battle, in the air above and on remote seas. This is the lesson we have to impart. This is the place to impart it. Learn this, and the trees planted by today's old men—let's say mature men and women—will bear precious fruit. And we may yet break ground on the last war memorial.

Thank you all and God bless the United States of America.

REMARKS OF FREDERICK W. SMITH, NATIONAL CO-CHAIRMAN, WWII MEMORIAL CAMPAIGN

When Senator Dole asked me to be a part of this campaign, my first thoughts were of my own family heroes—my Uncle Sam, my Uncle Bill, my Uncle Arthur and my father, all of whom served in World War II—two in the Army and two in the Navy.

Others in my family, including my mother, who is in the audience today, understood the sacrifice necessary to achieve victory and joined the millions of Americans who supported the war effort from the home front. I thought, what a shame that there isn't a memorial to represent the tremendous sacrifice and amazing achievements of their generation.

I can't imagine what this country or the world would be like had all of those who served so nobly overseas and at home not prevailed. It was the single most significant event of the last century.

Think back to the pre-war depression years. Factories were under-producing and 10 million Americans were unemployed. Countless more had substandard, low paying jobs.

Then, between 1941 and 1945, the number of jobless people dropped to one million, the output of manufactured goods increased by more than 300 percent, and average productivity was up 25 percent. America had become the world's arsenal of democracy.

Once mobilized, U.S. production lines annually turned out 20,000 tanks, 50,000 aircraft, 80,000 artillery pieces, and 500,000 trucks.

The enemy collapsed under America's superior capability to manufacture and deliver large quantities of equipment and supplies. Industry made an overwhelming contribution to final victory, and this effort transformed the nation forever.

But the national war effort extended beyond the factories and shipyards into every home and involved Americans of all ages.

Scrap drives for tin, iron, rubber and newspapers linked local neighborhoods to those on the front lines.

Victory gardens were planted, promoting pride in "doing your part" while reducing dependence on a system working overtime to supply food for our troops.

But nothing reflected home front commitment and resolution more than the blue and

gold stars hung in the windows of homes across the nation: enduring symbols of service and sacrifice.

World War II set the stage for business and industrial growth that helped us rebuild the devastated nations of the world, and fueled a national prosperity that we continue to enjoy today.

Over the past three years, we once again witnessed a coming together of the American people in support of a worthy cause, and a willingness to share some of our great wealth to honor those who kept us free to pursue our individual dreams.

The funding of the memorial was made possible by corporations, foundations, and veterans organizations; by civic, professional and fraternal groups; by the states; by students in schools across the nation and hundreds of thousands of individual Americans.

I can't possibly name all of our contributors—many are listed in your program. But I do want to acknowledge a few whose generosity became the foundation of our success: The associates and customers of Wal-Mart and SAM'S Club stores, and the foundation and employees of SBC Communications, Inc., The Veterans of Foreign Wars and The American Legion, The Lilly Endowment and the State of Pennsylvania.

Their gifts led the way, but every bit as important were the grassroots efforts of Community Action Councils and individual volunteers across the country; and the enthusiasm of our young students, who showed their appreciation for their family heroes through a variety of school recognition and fund-raising activities.

Senator Dole and I thank all who lent their support to this campaign with their words of encouragement and generous gifts. It has been our pleasure to have played a role in helping America say thank you to our World War II generation.

REMARKS OF AMBASSADOR F. HAYDN WILLIAMS, CHAIRMAN, ABMC WWII MEMORIAL COMMITTEE

President Clinton, WWII Veterans and Ladies and Gentlemen:

I am grateful and privileged to have had the opportunity to serve on the American Battle Monuments Commission, and to have been involved in the planning for the World War II Memorial and at the beginning of my remarks, I would like to acknowledge the valuable help I have received from the members of the Battle Monuments Commission and the Memorial Advisory Board, especially the contributions of General Woerner, Dr. Helen Fagin, Rolland Kidder, Jess Hay, and General Pat Foote.

I would also like to thank General John Herrling, the Secretary of the American Battle Monuments Commission, and his staff for their support.

Today marks a special moment in the nation's history as we break ground for the National World War II Memorial here at the Rainbow Pool. No other location in America could possibly pay a higher tribute to the event it will commemorate and to those it honors and memorializes than this awe inspiring site—on the National Mall—the nation's village green. As David Shribman, of the Boston Globe, has written, "the Memorial, lying on the symbolic centerline of our nation's history, is fully deserving of this singular honor because World War II is central to our history, central to our view of our role in the world, and central to our values."

We are deeply appreciative to those who have made this site possible: the Congress for authorizing the location of the World War II Memorial in Washington's monumental core area; the Secretary of the Interior for endorsing and making the site available; and, finally, The National Commission

of Fine Arts and the National Capital Planning Commission. After site visits and open public hearings, both of these commissions have approved and subsequently reaffirmed this magnificent location.

The glory of the Memorial is its setting, surrounded by the visual and historic grandeur of the Mall, and the beauty of its open vistas—which will remain open thanks to Friedrich St. Florian's visionary design concept. The addition of the World War II Memorial to the Mall's great landmarks will represent a continuation of the American story. It will provide a linkage of the democratic ideals of the past. Joining the company of Washington and Lincoln, and the Capitol, the site will encourage reflection on American democratic core values across the span of three centuries. No other site in the nation's Capitol offers such visual and emotional possibilities.

At the dedication of this site five years ago today, President Clinton proclaimed that "from this day forward, this place belongs to the World War II generation and to their families. Let us honor their achievements by upholding always the values they defended and by guarding always the dreams they fought and died for—for our children and our children's children."

To this end, the Memorial will be a legacy, a noble gift to the nation from the American people to future generations. It will be a timeless reminder of the moral strength and the awesome power that can flow when a free people are at once united and bonded together in a just and common cause. World War II was indeed a special moment in time, one which changed forever the face of American life and the direction of world history . . . and, I might add, the lives of many, if not most, of those in the audience this afternoon.

When finished, the Memorial will be a new and important gathering place, a place for the joyous celebration of the American spirit and national unity. It will be a place for open democratic discourse, formal ceremonies, sunset parades, band concerts, and other memorial events. It will, in essence, be a living memorial, as well as a sacred shrine honoring the nation, the homefront, the valor and sacrifice of our Armed Forces, our allies, and the victory won in the Second World War.

Now is the time to move forward to meet our last and most important goal—the construction of the Memorial and its formal dedication on Memorial Day, 2003, a day that will mark the end of a long and memorable journey.

Thank you.

REMARKS OF THE HONORABLE WILLIAM S. COHEN, SECRETARY OF DEFENSE

President Clinton, Senator Dole, Fred Smith, General Woerner, distinguished guests, honored veterans, ladies and gentlemen.

We are gathering to break ground and to raise a memorial of granite and stone, but—as has been said this afternoon—more deeply to honor the lives of those who saved this nation, and this world, in its darkest hour. From Guadalcanal to Omaha Beach, the millions of Americans who changed the course of civilization itself will have their names etched in the book of history in a far more profound and permanent way than even the words to be inscribed on the arches that will rise around us.

The great warrior and jurist Justice Oliver Holmes, Jr. once looked into the eyes of his graying fellow veterans and spoke words that ring with vibrancy and relevance to us today, "The list of ghosts grows long. The roster of men grows short. Only one thing

has not changed. As I look into your eyes I feel that a great trial in your youth has made you different. It made you citizens of the world."

We, the heirs of your sacrifice, are citizens of the world you made, and the nation you saved. And we can only stand in awe at your silent courage, at your sense of duty, and at the sacred gift that you have offered to all those who came after you. The honor of this day belongs to you.

A veteran of our great war for freedom at home, General Joshua Lawrence Chamberlain, who hailed from the great state of Maine, once said of his comrades, "In great deeds something abides. On great fields something stays. Forms change and pass, bodies disappear, but spirits linger to consecrate ground for the vision place of souls."

The men and women of America's armed forces, those who inherited four spirit, who defend the consecrated ground on which you fought, today carry on your noble work, preserving what you have created, defending the victory you achieved, honoring the great deeds and ideals for which you struggled and sacrificed. All of us, all of us, are truly and deeply in your debt forever.

Now, on the 50th anniversary of D-Day, standing on the bluff that overlooks Omaha Beach, President Clinton observed that it is a "hallowed place that speaks, more than anything else, in silence." So many years after the merciless sound of war had dissipated, the quiet and stillness of peace was hypnotically deep and profound.

Today, as we break ground on another silent sentry which will stand as a reminder of the long rattle of that now distant war, we are honored to have with us a commander-in-chief who has stood tall and strong for American leadership for peace and democracy, who refused to remain indifferent to the slaughter of innocent civilians, to the barbarity that we all thought that Europe would never see again, who refused to see evil re-ignited—the evil that you fought so hard to stamp out. He led our allies to defeat the final echo of the horrors from the 20th Century, preserving the victory you won so long ago.

For nearly four years now, it has been my honor to serve, and is now my great pleasure to introduce, the President of the United States, Bill Clinton.

REMARKS OF WILLIAM J. CLINTON, PRESIDENT OF THE UNITED STATES

Senator Thurmond once told me that he was the oldest man who took a glider into Normandy. I don't know what that means, 56 years later, but I'm grateful for all of the members of Congress, beginning with Senator Thurmond and all the others who are here, who never stopped serving their country.

But most of all I want to say a thank you to Bob Dole, and to Elizabeth, for their service to America. As my tenure as president draws to a close, I have had, as you might imagine, and up-and-down relationship with Senator Dole. But I liked even the bad days. I always admired him. I was always profoundly grateful for his courage and heroism in war, and 50 years of service in peace.

After a rich and long life, he could well have done something else with his time in these last few years, but he has passionately worked for this day, and I am profoundly grateful.

I also want to thank the men and women and boys and girls all across our country who participated in this fund-raising drive, taking this memorial from dream to reality. Their stories are eloquent testimony to its meaning.

Senator Dole and I were sitting up here watching the program unfold today. He told

me an amazing story. He said, "You know, one day a man from Easton, Pennsylvania, called our office. He was a 73-year-old Armenian-American named Sarkus Acopious." And he said, "You know, I'd like to make a contribution to this memorial. Where do I mail my check?"—this caller.

So he was given the address, and shortly after, this man who was grateful for the opportunities America had given him, a check arrived in the office, a check for \$1 million.

But there were all the other checks as well, amounting to over \$140 million in private contributions. There were contributions from those still too young to serve, indeed, far too young to remember the war. More than 1,100 schools across our nation have raised money for the memorial by collecting cans, holding bake sales, putting on dances.

Let me just tell you about one of them: Milwaukie High School in Milwaukie, Oregon. Five years ago, a teacher named Ken Buckles wanted to pay tribute to the World War II veterans. He and his students searched out local veterans and invited them to school for a living history day.

Earlier this week, Living History Day 2000 honored more than 3,000 veterans with a re-treated USO show that filled a pro basketball arena. Last year's event raised \$10,000 for the memorial, and students think that this year they'll raise even more.

Now what makes those kids fund raise and organize and practice for weeks on end? Well, many have grandparents and other relatives who fought in the war, but there must be more to it than that. They learned from their families and teachers that the good life they enjoy as Americans was made possible by the sacrifices of others more than a half century ago.

And maybe most important, they want us to know something positive about their own generation as well, and their desire to stand for something greater than themselves. They didn't have the money to fly out here today, but let's all of us send a loud thank you to the kids at Milwaukie High School and their teacher, Ken Buckles, and all the other young people who have supported this cause.

The ground we break today is not only a timeless tribute to the bravery and honor of one generation, but a challenge to every generation that follows. This memorial is built not only for the children whose grandparents served in the war, but for the children who will visit this place a century from now, asking questions about America's great victory for freedom.

With this memorial, we secure the memory of 16 million Americans, men and women who took up arms in the greatest struggle humanity has ever known.

We hallow the ground for more than 400,000 who never came home. We acknowledge a debt that can never be repaid. We acknowledge as well the men and women and children of the home front, who tended the factories and nourished the faith that made victory possible; remember those who fought faithfully and bravely for freedom, even as their own full humanity was under assault: African-Americans who had to fight for the right to fight for our country, Japanese-Americans who served bravely under a cloud of unjust suspicion, Native American code-talkers who helped to win the war in the Pacific, women who took on new roles in the military and at home.

Remember how, in the heat of battle and the necessity of the moment, all of these folks moved closer to being simply American.

And we remember how after World War II, those who won the war on foreign battlefields dug deep and gave even more to win the peace here at home, to give us a new era of prosperity, to lay the foundation for a new

global society and economy by turning old adversaries into new allies, by launching a movement for social justice that still lifts millions of Americans into dignity and opportunity.

I would like to say once more, before I go, to the veterans here today what I said in Normandy in 1994: Because of you, my generation and those who have followed live at a time of unequalled peace and prosperity. We are the children of your sacrifice and we thank you forever.

But now, as then, progress is not inevitable. It requires eternal vigilance and sacrifice. Earlier today, at the Veterans Day ceremony at Arlington National Cemetery, we paid tribute to the fallen heroes of the United States Ship *Cole*, three of whom have recently been buried at Arlington. The captain of the ship and 20 of the crew members were there today. We honor them.

Next week I will go to Vietnam to honor the men and women America lost there, to stand with those still seeking a full accounting of the missing.

But at the same time, I want to give support to Vietnamese and Americans who are working together to build a better future, in Vietnam, under the leadership of former congressman and former Vietnam POW, Pete Peterson, who has reminded us that we can do nothing about the past but we can always change the future.

That's what all of you did after the war with Germans, Italians and Japanese. You've built the world we love and enjoy today.

The wisdom this monument will give us is to learn from the past and look to the future. May the light of freedom that will stand at the center of this memorial inspire every person who sees it to keep the flame of freedom forever burning in the eyes of our children, and to keep the memory of the greatest generation warm in the hearts of every new generation of Americans.

Thank you and God bless America.

RECOGNITION OF SALISSA WAHLERS

Mr. LOTT. Mr. President, I rise today to commend Salissa Wahlers of Gulfport, Mississippi, for her selection to the Peace Corps program. Salissa is teaching English in Uzbekistan, where she will be working for the next two years. This is only Salissa's most recent accomplishment, and it adds to a long list that has grown throughout her life.

Salissa graduated from Middlebury College where she received a Bachelor of Arts degree in political science and sociology/anthropology. She was named Woman of the Year by the Women's Studies Program while at Middlebury. While in college, Salissa participated in the semester abroad program by attending Monash University in Melbourne, Australia. Additionally, she attended a winter semester at Berea College in Kentucky as a part of her college's winter term exchange program.

Mr. President, Salissa worked for three years during college to complete her honors thesis, which is very impressive for an undergraduate student. Her hard work paid off when she was able to present part of her thesis at the Northeastern Anthropological Association Conference in Queens, New York, this spring. She is clearly a model stu-

dent, and she exemplifies the rewards that individuals and society as a whole realize when education is a priority. I know her family, especially her mother, Kemmer McCall of Gulfport, is very proud of her.

VICTIMS OF GUN VIOLENCE

Mr. LEVIN. Mr. President, it has been over a year since the Columbine tragedy, but still this Congress refuses to act on sensible gun legislation.

Since Columbine, thousands of Americans have been killed by gunfire. Last Tuesday, on Election Day, voters in Colorado and Oregon fed up with such violence voted overwhelmingly to close the gun-show loophole, which extends background checks to all prospective purchasers of firearms at gun shows. Voters in those states recognized the need to pass responsible gun laws that can keep our schools and streets safe. Now, Congress should follow their lead.

Until Congress acts, those of us in the Senate who are committed to enacting responsible gun laws, will read the names of a number of those who have lost their lives to gun violence in the past year. The following are the names of some of the people who were killed by gunfire one year ago today.

NOVEMBER 14, 1999

Kenneth Jeffcoat, 18, Washington, DC;

George Jones, 20, Washington, DC;

Derrick Rogers, 43, Detroit, MI;

Andrian Thomas, 23, Detroit, MI;

Unidentified male, 25, Long Beach, CA;

Unidentified male, 20, Norfolk, VA; and

Unidentified male, San Francisco, CA.

Following are the names of some of the people who were killed by gunfire one year ago on November 2, 1999, the last day the Senate was in session.

NOVEMBER 2, 1999

Robert Lee Covington, 51, Memphis, TN;

Carey Jackson, 34, Fort Worth, TX;

Eddie Kennedy, 28, Atlanta, GA;

Victor Killebrew, 36, St. Louis, MO;

Dwayne Lemon, 36, Chicago, IL;

Douglas Pendleton, 30, Chicago, IL;

Joseph Slater, 19, Kansas City, MO;

Angel Walker, 20, St. Louis, MO;

Charles Watts, 19, Philadelphia, PA;

Unidentified female, San Francisco, CA;

Unidentified male, 40, Honolulu, HI;

Unidentified male, 30, Honolulu, HI;

Unidentified male, 58, Honolulu, HI;

Unidentified male, 54, Honolulu, HI;

Unidentified male, 46, Honolulu, HI;

Unidentified male, 36, Honolulu, HI; and

Unidentified male, 36, Honolulu, HI.

The deaths of these people are a reminder to all of us that Congress must enact sensible gun legislation now.

ON THE RECENT ELECTION

Mr. LEAHY. Mr. President, I congratulate all those who participated in

our recent Federal and State elections. In Vermont 63 percent of registered voters went to the polls and voted. In other States it was a bit more, in some a bit less.

The 2000 presidential election reminds us all that every vote counts. State electoral votes for President and Vice President may be decided in some States by the fewest in history, literally a handful of votes. In New Mexico, the counting continues and the outcome is very close. In Florida, the counting continues and the outcome is very close.

Likewise in Washington State, the vote for the Senator from Washington is still being counted and is very close. A number of House congressional races remain very close and final results may have to await recounts and the outcome of protests and challenges. The results of the Senate and House elections are such that the House and Senate themselves will have equal numbers or almost equal numbers of Democrats and Republicans.

I want to commend all those who participated. I welcome our newest Senators-elect. Many are in town this week. I welcome JEAN CORNAHAN, DEBBIE STABENOW, TOM CARPER, JON CORZINE, MARK DAYTON, BEN NELSON, BILL NELSON, and HILLARY RODHAM CLINTON. In addition, we may be joined by Maria Cantwell. We will be joined by GEORGE ALLEN, and JOHN ENSIGN. All will add greatly to our ranks and, I hope, to the Senate's ability to find answers to the problems of the American people.

The Congress will be confronted with a number of challenges. We will need to find ways to work together. In the Senate, the possibility of a Senate equally divided among Democrats and Republicans has prompted the Democratic Leader to make the suggestion that we consider new and less confrontational organizational principles that would include equal membership ratios on our Committees and equal staffing and equitable sharing of resources. Those are suggestions that should be seriously considered. I look forward to working with all Senators in the coming days: Senators in this Congress as we complete our work before adjourning sine die and Senators in the next Congress as we organize for our work in January.

DEPRESSION, SUICIDE, AND MEDICARE

Mr. WELLSTONE. Mr. President, I rise today to call attention to new data with respect to older Americans and mental illnesses that support swift consideration by the Senate of the Medicare Mental Health Modernization Act, S. 3233, a bill that I introduced on October 25, 2000.

Throughout my Senate career, I have been concerned about mental illness and the unfair discrimination faced by those with this serious illness. We now know from Surgeon General David

Satcher, in his recent report, "Mental Health: A Report of the Surgeon General," that the rate of major clinical depression and the incidence of suicide among senior citizens is alarmingly high. This report cites that about one-half of patients relocated to nursing homes from the community are at greater risk for depression. Moreover, up to 37% of older adults treated in primary care settings experience symptoms of depression. At the same time, the Surgeon General emphasizes that depression "is not well-recognized or treated in primary care settings," and calls attention to the alarming fact that older people have the highest rates of suicide in the U.S. population. Contrary to what is widely believed, suicide rates actually increase with age, and, as the Surgeon General points out, "depression is a foremost risk factor for suicide in older adults."

Clearly, Mr. President, our nation must take steps to ensure that mental health care is easily and readily available under the Medicare program. S. 3233, the Medicare Mental Health Modernization Act, takes an important first step in that direction. It is time to take this potential fatal illness seriously. I believe we must do everything we can to make effective treatments available in a timely manner for older adults and others covered by Medicare, and help prevent relapse and recurrence once mental illness is diagnosed.

The mental health community is very aware of the problems in the Medicare system and is fighting to improve it. I want to thank those groups that have supported this initial effort to improve mental health care in the Medicare program, particularly the American Mental Health Counselors Association (AMHCA) for their leadership role in fighting for improved mental health care coverage for seniors under Medicare. Their support joins that of the other major mental health groups mentioned in my earlier statement, as well as the Association for the Advancement of Psychology, the Clinical Social Work Federation, the Federation of Families for Children's Mental Health, the International Association of Psychosocial Rehabilitation Services, and the National Council for Community Behavioral Healthcare. I want to applaud the determination of these groups for stepping forward to fight for the rights of those with mental illnesses, and their commitment to improving mental health services funded by the Medicare program.

HONORING THE MARINE CORPS 225TH BIRTHDAY

Ms. LANDRIEU. Mr. President, On November 10th, we honored the 225th birthday of the United States Marine Corps. For more than two centuries, the United States Marine Corps has exemplified the highest virtues of loyalty, service, and sacrifice. From the Barbary coast to the far reaches of the Pacific, in the jungles of Vietnam and

across the vast expanse of the Arabian desert, America's Marines have shown the world the meaning of "Semper Paratus."

Through the long march of our history, few military organizations have been held in such high esteem as the United States Marine Corps. Our Marine Corps are men and women of great character. They are smart, tough, dedicated, and faithful, truly the best America has to offer. For 225 years, they have stood for all that is great about this nation: honor, courage, and commitment. Their values, sense of courage, and quiet, steadfast character remain timeless and valuable commodities for an age in which our Nation's interests face considerable new threats.

Throughout their great history, Marines protected America's interests, struggled against foes who attempted to do our country harm, and remained at the forefront of our Nation's efforts to maintain global peace and stability. In hundreds of distant lands, from Nicaragua to Lebanon to Somalia, Marines restored and maintained order, aided people in distress, provided protection for the weak, and upheld the values that have come to define our country on the world stage. Many made the ultimate sacrifice in the service of their country, and we honor their memory.

In my hometown of New Orleans, we are fortunate enough to be rich in Marine Corps history and tradition. We are the proud home of the Marine Forces Reserve Headquarters where Major General Mize commands more than 104,000 Reserve Marines all across the United States. We are also the home of the last Medal of Honor winner in the Vietnam War, General James E. Livingston. Despite the fact that then-Captain Livingston was wounded a third time and unable to walk, he steadfastly remained in a dangerously exposed area, supervising the evacuation of casualties. Only when assured of the safety of his men did he allow himself to be evacuated. His valor on the battlefield epitomizes the spirit of the Marine Corps.

As we set out in this new century, the importance of our Marine Corps has never been more clear. Tomorrow, as today and for generations past, the razor sharp readiness of the United States Marine Corps serves as a beacon to America's friends and a warning to our enemies, promising swift action, great victories and richer traditions yet to come.

On this day, I offer warmest regards to all who have worn the eagle, globe and anchor, and to the families who also serve by supporting them. You represent all that is wonderful about our Nation.

HELPING SOUTH DAKOTA COMMUNITIES FIGHT CRIME

Mr. JOHNSON. Mr. President, throughout the past year, I continued working with local and state community leaders and law enforcement offi-

cial all across South Dakota in an effort to find solutions to the most pressing problems facing the people of my state. A number of issues that Congress can address were brought to my attention through these meetings, and I continue to find this statewide dialog extremely valuable on further developing a community approach to reducing crime. I've worked on a bipartisan basis with my colleagues in the United States Senate to help South Dakota communities get the resources they need to address the crime problems they face.

COMMUNITY POLICING AND THE COPS PROGRAM

Community Policing has proven effective in reducing crime rates nationwide, and I am optimistic that such efforts in our small towns will prove equally successful. As you know, the majority of potential offenders, both juvenile and adult, in our state are still within reach of rehabilitation and support to put them back on track as productive, law abiding citizens.

I believe the Congress must assist state and local efforts to crack down on crime by continuing federal support through funding for localized programs. One of the most successful programs in South Dakota has been the COPS program. Since 1995, the COPS program has allowed South Dakota communities to hire 290 new police officers. In addition, the COPS program has expanded recently to help school districts hire police resource officers to deal with youth violence in South Dakota schools. The COPS in School's program has committed \$1.25 million to South Dakota communities.

Although the COPS program has helped reduce the overall crime rate nationwide and has been extremely popular with local law enforcement in our state, I find myself once again working to make sure the program is adequately funded. I support the Administration's request of \$1.3 billion for the COPS program to hire 7,000 new police officers nationwide, provide local law enforcement with advanced crime fighting technology, hire more community prosecutors, expand crime prevention programs, enhance school safety programs, and assist law enforcement on Indian Reservations. At this level of funding, South Dakota would receive an estimated \$734,000 next year to help fight crime in our communities and in Indian Country.

However, the Senate and House Leadership's inability to pass the annual appropriations bills has put COPS funding in jeopardy. I will continue to work with my colleagues to increase funding for this critical program and am hopeful that common sense will prevail over partisan gamesmanship on this crucial issue.

THE KYL-JOHNSON FEDERAL PRISONER HEALTH CARE COPAYMENT ACT

Senator JON KYL (R-AZ) and I introduced two years ago a bill to require federal prisoners to pay a nominal fee when they initiate certain visits for medical attention. Fees collected from

prisoners will either be paid as restitution to victims or be deposited into the Federal Crime Victims' Fund. I am pleased that the President recently signed into law the Kyl-Johnson Federal Prisoner Health Care Copayment Act.

South Dakota is one of 38 states that have implemented state-wide prisoner health care copayment programs. The Department of Justice supported extending this prisoner health care copayment program to federal prisoners in an attempt to reduce unnecessary medical procedures and ensure that adequate health care services are available for prisoners who need them.

My interest in the prisoner health care copayment issue came from discussions I had in South Dakota with a number of law enforcement officials and U.S. Marshal Lyle Swenson about the equitable treatment between pre-sentencing federal prisoners housed in county jails and the county prisoners residing in those same facilities. Currently, county prisoners in South Dakota are subject to state and local laws allowing the collection of a health care copayment, while Marshals Service prisoners are not, thereby allowing federal prisoners to abuse health care resources at great cost to state and local law enforcement.

As our legislation moved through the Senate Judiciary Committee and Senate last year, we had the opportunity to work on specific concerns raised by South Dakota law enforcement officials and the U.S. Marshals Service. Senator KYL was willing to incorporate my language into the Federal Prisoner Health Care Copayment Act that allows state and local facilities to collect health care copayment fees when housing pre-sentencing federal prisoners.

VIOLENCE AGAINST WOMEN ACT

I am pleased the President recently signed into law a reauthorization of the landmark Violence Against Women Act. The legislation is part of a larger bill that also includes "Aimee's Law." I've supported Aimee's Law in the past and am pleased this provision will help crack down on states that fail to incarcerate criminals convicted of murder, rape, and dangerous sexual offenses for long prison terms.

I've been involved in the campaign to end domestic violence in our communities dating back to 1983 when I introduced legislation in the South Dakota State Legislature to use marriage license fees to help fund domestic abuse shelters. In 1994, as a member of the U.S. House of Representatives, I helped get the original Violence Against Women Act passed into law. Since the passage of this important bill, South Dakota has received over \$8 million in funding for battered women's shelters and family violence prevention and services.

In South Dakota alone, approximately 15,000 victims of domestic violence were provided assistance last year, and over 40 domestic violence shelters and outreach centers in the

state received funding through the Violence Against Women Act. Shelters, victims' service providers, and counseling centers in South Dakota rely heavily on these funds to provide assistance to these women and children.

The original Violence Against Women Act increased penalties for repeat sex offenders, established mandatory restitution to victims of domestic violence, codified much of our existing laws on rape, and strengthened interstate enforcement of violent crimes against women. I am pleased to support efforts this year that strengthen these laws, expand them to include stalking on the internet and via the mail, and provide local law enforcement with additional resources to combat domestic violence in their communities.

JUVENILE JUSTICE

While I am pleased that Congress continued to debate Juvenile Crime legislation this session, I am disappointed that Senate and House Leadership will allow Congress to adjourn without enacting important juvenile crime prevention programs into law. The leadership of several of America's law enforcement organizations, along with prosecutors and crime survivors, have consistently endorsed quality child care and after-school programs as a primary way to dramatically and immediately reduce crime.

I will continue to support significant increases in funding for Head Start, Early Head Start, after-school programs and the Child Care and Development Block Grant program in large part because of the potential these programs have to reduce juvenile crime and domestic violence nationwide.

COMBATTING METHAMPHETAMINE IN SOUTH DAKOTA

A number of South Dakota law enforcement officials and local leaders have told me that meth abuse has become one of their top crime-fighting priorities in the past few years. Meth abuse threatens our young people, law enforcement officers, and our environment. Once again, I led efforts to enhance punishments of meth operators, mandate restitution for meth lab clean-up, and increase funding for treatment and prevention efforts. I also joined Senator TOM HARKIN (D-IA) in successfully securing emergency funding for meth lab clean-up efforts in South Dakota and nationwide.

There is much to be done to bring crime rates in our state down, and to help every South Dakotan feel safe in their home and community. I look forward to continuing my work with state and local leaders, law enforcement agencies in South Dakota, and my Republican and Democratic Senate colleagues in Washington. Together, by focusing on community crime prevention and by investing in our kids, I believe we can make progress in addressing the unique needs of our South Dakota communities.

ADDITIONAL STATEMENTS

TRIBUTE TO COL. ROBERT F. SINK

• Mr. MILLER. Mr. President, history gives us many examples of men and women who went above and beyond the call of duty to serve our great country. In our military, there have always been men and women who were not satisfied with maintaining the status quo, but who, instead, strove to make our armed forces the world's finest and the most powerful. One such individual was the late Colonel Robert F. Sink, commander of the 506th Parachute Infantry Regiment in Toccoa, Georgia.

The 506th Parachute Infantry Regiment was constituted on July 1, 1942 in the Army of the United States, activated July 20, 1942 at Camp General Robert Toombs at Toccoa, Georgia, attached to the 101st Airborne Division on June 1, 1943 and assigned to the 101st Airborne Division on March 1, 1945. The camp located at Currahee Mountain in Toccoa was soon renamed Camp Toccoa and was chosen because of its rugged terrain. The 506th Regiment selected the symbol of the Currahee Mountain as its Coat of Arms and "Currahee" became its battle cry.

It was here, in Toccoa, that Col. Sink initiated his rigorous training program called "Muscle College" and set many of the standards for the paratrooper basic training program of the 101st Airborne Division. Because of Col. Sink's efforts, the 506th Parachute Infantry established records never before reached by any military unit in the world. Furthermore, Airborne infantrymen around the nation recognized the "Currahee trained" men from Camp Toccoa as a cut above their peers in strength and performance.

Col. Sink led his 506th Regiment into combat on D-Day at Normandy, then to Holland, Bastogne, France, Germany, and all the way to Hitler's "Eagle Nest." By the end of World War II, the 506th had received several coveted awards and decorations. The courageous service of the 506th Parachute Infantry Regiment was due, in no small measure, to the tireless efforts of Colonel Robert F. Sink, a true American hero. In honor of this great man, the Currahee Mountain Road, which changed the boys of the famous "Currahee" Regiment into men, will be fittingly renamed the "Col. Robert F. Sink Memorial Trail."

I hope my colleagues will join with me today in honoring this great man and his groundbreaking work on behalf of our nation's security. For those under Colonel Sink's tutelage who will travel back to Toccoa for this important reunion and celebration, I wish you the best and thank you for your service. Finally, special thanks should be extended to State Representative Mary Jeanette Jamieson for her work on this project. It was a pleasure to be involved in such a worthy effort. ●

TRIBUTE TO REVEREND WILLIE JAMES

• Mr. LAUTENBERG. Mr. President, I rise today to recognize the great work of a civil rights pioneer and chapter president of the National Association for the Advancement of Colored People of Willingboro, New Jersey, Reverend Willie James, on the occasion of his receiving the award for exemplary community service.

Reverend James began his work for civil rights in 1958 when he attempted to buy a house in Willingboro's Levitt community. He was told that houses would not be sold to African-Americans. Reverend James decided to sue. Two years later, the United States Supreme Court officially integrated Willingboro, enabling Reverend James to become one of the community's first African-American residents.

In 1974, work demands forced Reverend James to move to Rhode Island. While in Rhode Island, Reverend James joined a statewide commission that studied disparities in white and minority prison rates than whites.

Eventually Reverend James returned to New Jersey where his level of activism flourished. He became president of the Willingboro chapter of the NAACP. During his time as president, Reverend James made great progress researching the issue of disproportionate African-American male imprisonment.

In the recent election, Reverend James and the local chapter of the NAACP worked on motivating minorities to vote. Reverend James is a recipient of more than 30 local and national awards for his commitment to public service.

I am pleased to honor Reverend Willie James on this joyous occasion. His family, his friends, and his community are indebted to him for his unyielding service. This honor is richly-deserved. I salute him on yet another great achievement.●

IN RECOGNITION OF MR. WOODROW W. WOODY

• Mr. LEVIN. Mr. President, on Thursday, November 16, 2000, the people of Michigan, will pay tribute to Mr. Woodrow W. Woody, president and owner of the longest running car dealership in the Nation—Woody Pontiac Sales, Inc. Mr. Woody, who continued active participation in the business, until he was 92 years old in June 2000, when he officially closed the Pontiac dealership he opened in the city of Hamtramck, MI in 1940.

Mr. Woody has come to be known as the pillar of his industry. In 1966, his dealership hit its peak year with the sale of 2,200 cars. Revered by his peers and the people of Michigan, he was inducted into the Automotive Hall of Fame. Over the 60-year operation of his dealership, Woody, as he is called by friends and family, estimates that he sold over 100,000 Pontiacs, one of General Motors' leading products. He says

his success is due to his genuine love of life and people.

This immigrant from Lebanon, embodies the ultimate success story of the American dream. Much of why he is being honored is because of his dedication and loyalty to the citizens of the city of Hamtramck and his beloved Lebanon. When the economy recessed and auto sales reflected a downturn, Woody never considered moving his dealership from the community that supported him through prosperous times. Hailed for his philanthropic activities, he spearheaded a drive to build a new facility for the Hamtramck Public Library. In addition, he has worked with Junior Achievement and the Rotary Club for more than 50 years accomplishing projects which support community growth. Woody has also been just as committed to the people of his homeland, where he has built a school and medical clinic.

Although Woody promises to continue his work in the community, interacting with various civic and fraternal organizations for the good of the community, the industry has lost its senior statesman and he will be sorely missed. We all wish Woody continued health, happiness and prosperity in the years ahead. I am sure my colleagues join me in the celebration of the life of Mr. Woodrow W. Woody, extending to him the good will and wishes of the Senate.●

RECOGNITION OF BRIAN KAATZ, PHARM. D.

• Mr. JOHNSON. Mr. President, I rise today to express my appreciation for the contributions of Brian Kaatz, Pharm. D. who has worked as part of my staff for the past three months as a senior Fellow. Brian's expertise in the area of pharmacology has made him a tremendous asset to my legislative staff, and I am fortunate to have had his assistance. When he returns to the Department of Clinical Pharmacy at South Dakota State University in December, I know he will be missed immensely by me and my entire staff.

Fellows are often considered secret weapons to the Members they assist. Brian has been no exception. He came to my office with a distinguished professional career accompanied by a wealth of experience within the pharmacy industry. While his expertise lies in clinical pharmacy, Brian's interests range from issues involving infectious diseases and use of antibiotics, nutrition, health care ethics, drug policy and roles for pharmacists.

Currently a Professor and Department Head of Clinical Pharmacy at the South Dakota State University, Brian has had a career filled with accomplishments. He has been president of the South Dakota Society of Hospital Pharmacists, a member of the committee that re-wrote the pharmacy practice act passed by the South Dakota legislature in 1992, an official delegate several times to the American

Society of Health-System Pharmacy annual meeting, and served as a consultant to several South Dakota hospitals and law firms. Additionally, Brian has authored or co-authored approximately twenty-five professional articles and is currently the editor of the South Dakota Journal of Medicine's Pharmacology Focus column, published monthly in South Dakota's Physician Journal. He has made numerous major presentations both regionally and nationally, and received several awards over the years for his notable career.

Throughout the past three months, Brian has worked on a number of projects in my office dealing with pharmacy and health care. Brian led research efforts regarding a comprehensive study comparing prescription drug prices throughout South Dakota and the impact of rising drug costs on those without insurance. Many millions of Americans, both Medicare age and younger have either inadequate or no prescription drug insurance at all. There are roughly 39 million Medicare beneficiaries in this country, one third of whom have no prescription drug coverage. At a time, when drug prices are rising at rates far greater than the rate of inflation and seniors around this country are forced to choose between buying food or pills, we have an inadequate Medicare program that provides no coverage for prescription drug costs. The study that Brian spearheaded provided me with crucial data and real life stories depicting the impact of this issue for South Dakotans, young and old alike. Brian's research furnished my office with up-to-date and unbiased information that enabled me to communicate effectively with my constituents, especially pharmacists, during this time. Unfortunately, Congress was not able to come to an agreement on how we provide Medicare beneficiaries with prescription drug coverage, therefore the information that Brian compiled for me will be critically important as I work on this issue in the 107th Congress next year.

Brian also facilitated discussions with the Government Accounting Office, GAO, on two subject matters involving direct-to-consumer advertising of prescription drugs and conflict of interest matters involving the Food and Drug Administration's Advisory Committee members. The research Brian conducted in these two areas will provide me with the basis for further discussions with GAO and congressional committees seeking hearings into these matters. Brian previously authored and co-authored two articles specifically on the subject of direct-to-consumer advertising and has completed extensive research in this field.

I ask to have the contents of these two articles printed in the RECORD following completion of my statement.

One of the most important tasks as a Senator is to communicate with your constituents back home. Balancing my

duties in Washington with my schedule in South Dakota is often challenging due to uncertainties of the Senate schedule. Brian's established relationship with the South Dakota Pharmacist's Association, South Dakota Board of Pharmacy and several national pharmacy organizations was extremely crucial to his work with my office. He was able to advance discussions surrounding several issues with these groups which will aid me tremendously in my future work with prescription drugs, roles of pharmacists and other health policy matters.

Brian can take pride in his career and dedication to health care issues. He is a recognized health care expert, an educator, an author, an advocate and a friend. I wish to express my deep gratitude to Brian for a job well done. I wish him the very best in his future endeavors.

The articles follow.

[From the South Dakota Journal of Medicine, Dec. 1998]

DIRECT-TO-CONSUMER ADVERTISING OF PRESCRIPTION DRUGS: AN ETHICAL PERSPECTIVE
(By Brian Kaatz)

There is no doubt to anyone who reads this that the detailing and promotion of prescription drugs is big business. Thousands of sales representatives are employed and millions of dollars are spent annually to explain the putative advantages of certain products over others.

Notably, the effort by pharmaceutical manufacturers to expand market share of certain targeted prescription drugs has traditionally been directed solely to health professionals. This has changed in a big way.

Newspapers, magazines, and television are inundated with prescription drug promotions aimed at attracting the attention and interest of the public. Advertisements are intended to stimulate the individual interest of patients, which then potentially will result in inquiries (or demands) directly to physicians for that product. This approach may seem entirely satisfactory to the general public, but it is potentially problematic from several standpoints.

Even under the best of circumstances, most clinicians will admit that their knowledge of new drug products is far from complete. Ideally, a perspective of when or if to use a new product will come from careful surveillance of the primary literature, consultation with a respected and knowledgeable colleague, or from an unbiased, current review of a specific category of drugs. Many physicians pragmatically approach a new drug intending to be "neither the first nor last" to use it. This approach could understandably be thwarted if a number of patients persistently request a particular product as a result of the tried-and-true marketing approach of repetitive media encounters and high product visibility.

A patient may not be understanding if her physician tells her that he has no experience with a drug when at the same time the patient has seen it advertised maybe 20 times in the last two weeks. What is wrong with my doctor? Doesn't he watch TV?

The result may be subtle pressure or even coercion to prescribe the drug in question.

Tens of millions of dollars are spent advertising drugs like Claritin, Rezulin, Zocor, and Pravachol. Apparently, this approach has been especially successful since August of 1997, when the FDA allowed televised advertisements to be exempt from detailed descriptions of drug risks. This ruling at least

relieved the viewing public from the sometimes bizarre, oblique ads that were seen prior to this, when requirements limited drugs to a name but no detail as to its use. Even relatively astute observers were sometimes confused about the intent of these commercials.

Now, patients and other interested parties are referred to the Internet or other sources "for more information," though they obviously are already headed down the road of special interest in that drug.

Beyond the easy questions that would ask, why can't these tens of millions of dollars be used to lower drug costs, or be put into research for new and safer pharmacologic entities, what of the ethics of direct-to-consumer advertising?

Patient autonomy has been argued elsewhere as being the preeminent ethics principle. There is a strong case for patients knowing as much as they can reasonably understand about disease processes and medication risks and advantages. There is also a strong case for patients being actively involved in their own therapeutic journeys and fully participating in these kinds of decisions. But can we relate direct-to-consumer advertising with true patient autonomy? Is advertising valuable in the effort to develop autonomous decision making? There is a case for answering these questions in the negative.

It must be remembered that patient autonomy does not begin and end with the simple act of a patient making a decision. To the contrary, autonomous decision-making occurs only when there is a fully informed decision-maker. Autonomy is based upon that important element. Thus, one can readily see that a brief, colorful advertisement by itself offers little in the way of full disclosure and does not contain the complete tools necessary to make an autonomous decision.

It perhaps is particularly important in these situations for doctors to maintain a healthy beneficent attitude which could result in a patient receiving a drug with which his physician is familiar and comfortable, rather than the one that is most persistently on prime time. It is not a disservice to attempt to dissuade a patient who is only partially armed with knowledge from committing to long term therapy with a potentially suboptimal drug. And it is not true autonomy that is being exerted when a patient presses for that drug. What might at first glance seem like autonomy lost is actually beneficence gained.

[From the Journal of Medical Humanities and Bioethics, Spring/Summer 1987]

THE PHYSICIAN AND THE PHARMACEUTICAL
DETAIL MAN: AN ETHICAL ANALYSIS

(By Jerome W. Freeman and Brian Kaatz)

The principal focus of medical practice should be the patient's interest. The physician's conduct in the clinical realm should consistently reflect this. Arguably, this ideal is not always realized. An example of a circumstance in which the patient's interest does not predominate occurs in the context of the physician's interaction with pharmaceutical companies. These companies have a variety of marketing techniques directed at physicians in order to promote prescription drugs. This essay will explore the ethical implications of one aspect of these marketing programs—namely, the role of pharmaceutical salespersons. These men and women have a variety of titles including "sales representative," "medical sales liaison," and "detail man." The latter term is commonly used, apparently as a reflection of these representatives' efforts to provide physicians with details or data about drugs.

Before attempting to assess the ethical implications of pharmaceutical companies'

marketing techniques, a specific inquiry into the goals and ideals of medical practice is warranted. Most physicians take for granted the notion that the patient's interest is of primary importance and that moral dilemmas in medicine are appropriately resolved through a patient-centered ethic. Kass reflects this view when he notes that "loyalty to the patient must be paramount, first, because the mysterious activity of healing depends on trust and confidence, which is lodged by the vulnerable and dependent patient with the physician, in the very act of submitting to his care."

The basis for such a patient-centered ethic derives from, and is consistent with, basic ethical principles. Veatch characterizes these principles as the "basic social contract," and he points out that diverse ethical systems frequently arrive at a similar core of basic principles and derivative rules. Often such principles include autonomy, nonmaleficence and beneficence. On the basis of such articulated principles, society can proceed to define the nature of relationships between a profession and society. Veatch argues that this process can establish that a contract or covenant exists between the physician and society and between the physician and the individual patient. This covenant arguably mandates a patient-centered ethic in medicine, guided by adherence to those basic ethical principles society has defined and endorsed.

Of these major principles, autonomy dictates that the physician treat the patient with dignity and respect and that the patient be allowed to participate in his or her own health care decisions. Nonmaleficence warrants that the physician endeavor to avoid causing the patient harm through his actions. The sense of this principle, thought to derive from the Oath of Hippocrates, is often quoted in the Latin phrase *primum non nocere* (first, do no harm). Beneficence stipulates that the physician work actively to benefit the patient by contributing to his or her health and welfare.

In this ethical framework, it is possible to characterize the impact that pharmaceutical marketing techniques have on the physician-patient relationship. The pharmaceutical detail man promotes his company's products to physicians in a number of ways. He or she frequently calls on physicians in their offices and also meets with them in the hospital. Often in hospitals the representatives from various pharmaceutical companies participate in a rotational schedule for operating a drug display in a prominent location, usually near the physicians' entrance. A detail man frequently has one or two drugs to promote actively, and literature and visual displays which describe these agents. Each salesperson argues why his or her drugs are better than competitors' formulations. In addition to a verbal message and printed information, the detail man often has various "gifts" for the physician. Pens or writing pads inscribed with a particular drug name are common. Gifts also include free texts, medical equipment (such as reflex hammers and penlights), and medical bags (typically given to graduating medical students). Drug samples are frequently offered. In addition, the detail man may coordinate more elaborate gratuities such as cocktail parties, refreshments at medical meetings (such as those of state medical association groups) and the sponsorship of medical symposia. Specific examples of such marketing efforts are illustrative.

One of our community hospitals was approached by a drug salesperson to participate in a study involving an antibiotic that was on the market. This drug's utilization had been minimal because of increased cost to the patient and the fact that it offered no

substantive therapeutic advantage. The proposal extended to the physicians and hospital was to use the drug on a given number of patients, at the patients' expense. Physician participants in the study were to be "reimbursed" 125 dollars for each patient enrolled. This sum was designated to cover "expenses" associated with the study.

A second example of an elaborate gratuity system has recently been utilized in our community. Selected physicians were invited by a pharmaceutical company's detail man to an expense-paid seminar in a popular vacation city. The meeting focused on a new antihypertensive drug (at the time, this drug company had the only formulation of this drug on the market). The educational component of the meeting was judged to be very good by the physician participants. This promotional package included airfare for the physician, lodging for the physician and spouse, meals, a cocktail party, and an evening of dining and dancing on a chartered river boat. In the year following this event, two other pharmaceutical companies have offered similar meeting packages to physicians in the community.

Such promotional efforts are clearly expensive. For instance, it has been estimated that each visit by a detail man to a physician costs the pharmaceutical company 75 dollars. Despite the expense, however, drug companies have found that the use of the detail man is the most effective means of promoting their products. These companies often prefer to characterize their detail man as "service representatives" purveying information, rather than as salespersons. One company not only requires the detail man to attend four tutorials a year, but also gives pharmacology tests to all its representatives quarterly. But such training does not negate the fact that, in practice, detail men function as aggressive, effective salespeople. Indeed, most of them are at least partially reimbursed on a commission basis. Their success as pharmaceutical representatives is clearly dependent upon their ability to sell drugs. Those drugs which representatives emphasize at any given time reflect corporate decisions based on such factors as competition, quotas and the patent status of the drugs.

Given the stated nature of the physician-patient covenant, the type of relationship that frequently exists between the physician and the detail man is ethically troublesome. More specifically, that relationship appears to violate all three of the basic ethical principles previously discussed. By virtue of the principles of autonomy and beneficence, the patient has a right to expect that he or she will be treated with dignity and respect. He or she expects to receive the best possible treatment the physician can generate. The patient has a right to assume that the physician's therapeutic decisions are based solely on scientific medical knowledge, unbiased by extraneous factors or inducements. Thus, the very nature of the physician-patient covenant, and the principles that underlie it, would seem specifically to preclude the physician from basing a drug-prescribing decision on factors other than what is objectively best for the individual patient. To the extent that the physician decides to try out a new drug or opt to prescribe regularly a medication simply because he likes a detail man or because he is consciously or unconsciously affected by his or her various inducements and salesmanship, the physician would seem to be violating the patient's trust. One wonders what a patient's reaction would be if he or she were explicitly aware that such interactions and inducements existed.

In addition, the principle of nonmaleficence can be violated by the physi-

cian-detail man relationship. Often the new drug formulations which are promoted offer no meaningful advantage over older drugs. Yet, in taking them, the patient risks the possibility of experiencing adverse effects as yet undiscovered or not well publicized (even when the drug has been approved by the Food and Drug Administration). The recent controversy surrounding the drug Oralflex constitutes such an example. This drug was vigorously promoted as a new, very effective agent for arthritic symptoms. Shortly after its release, this agent was removed from the market because it was associated with serious liver toxicity in some patients. Moreover, the patient usually pays considerable financial premium when a new drug formulation is used. Invariably, the newer drugs being marketed are significantly more expensive than older, and sometimes equally effective, drugs whose patents have expired (rendering them much less profitable to the pharmaceutical company). Again, the average patient has no insight into this fact. He or she certainly is not usually afforded the opportunity to decide autonomously whether the drawbacks and risks of a new drug formulation render it less advantageous than other, longer-established drugs. And indeed, even if the typical patient is given some knowledge of drug options, he or she lacks the expertise to participate seriously in the decision of which drug to employ. In fact, it is the physician alone who ordinarily must make the determination of which drug to employ. If this decision is based on sound, scientific data, the choice of a new and more costly drug may clearly be justified. However, to the extent that the physician does not rely on objective medical data (as published in medical journals or discussed at medical meetings), but rather derives his information from the drug companies' own representatives, a potential conflict of interest exists.

Pharmaceutical companies might respond to this assertion by observing that in our free enterprise system there is nothing wrong with vigorously marketing one's products. Indeed, in the open marketplace it is, of course, common to offer a variety of inducements, including rebates, coupons, gifts and other types of price reductions. However, this situation is not analogous to the relationship between the detail man and the physician. In the ordinary marketing arena, companies attempt to influence the purchaser and user of various products. This is categorically not the case in the relationship between the physician and the pharmaceutical companies. The patient is the passive, dependent recipient of the physician's practice decisions. By virtue of this fact, as well as the implicit covenant which exists between the physician and the patient, the physician has an obligation to strenuously avoid basing any prescription decisions on factors other than the strict medical indications for those drugs. To the extent that the physician is either unconsciously or manifestly induced to use the drugs of a given detail man or pharmaceutical company, in the absence of strict medical indication, a significant ethical problem exists.

The implications of this analysis are clearly troublesome. It would appear that the current standard of medical practice, in terms of the relationship between the physician and the pharmaceutical detail man, may readily promote outcomes not in the patient's best interest. Since the physician-patient covenant and the ethical principles which underlie it warrant that the patient's interests should be the prime focus of medicine, significant changes are warranted in the methods which pharmaceutical companies employ to market their drugs. Currently, pharmaceutical companies, medical

organizations and individual physicians are clearly party to, as well as beneficiaries of the present marketing techniques. Thus, there are powerful incentives to maintain this longstanding system. The pharmaceutical companies' profit makes it understandably difficult for them to endorse sweeping changes in their current, successful marketing practices. Many medical organizations and their scientific journals are largely dependent on the advertising which is purchased by the drug companies. And certainly the individual practitioner, too, clearly benefits from the current system of gifts and gratuities.

Changes in the present system of drug marketing will doubtless come slowly. Most likely, improvements will evolve only as individual physicians become better educated about these ethical concerns and committed enough to demand alterations in the present marketing practices. The individual physician's role in this process should not be viewed as an optional one. Rather, the physician is ethically mandated to work for change in this realm of drug marketing. This responsibility derives from the physician's clinical covenant with the patient and the moral principles which underlie it.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

Under authority of the order of the Senate of January 6, 1999, the Secretary of the Senate on November 3, 2000, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 124. Joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

ENROLLED BILL SIGNED

Under authority of the order of the Senate of January 6, 1999, the Secretary of the Senate on November 3, 2000, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill and joint resolution:

S. 2413. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify the procedure and conditions for the award of matching grants for the purchase of armor vests.

H.J. Res. 123. Joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

Under authority of the order of the Senate of January 6, 1999, the enrolled bill was signed by the President pro tempore (Mr. THURMOND).

Under authority of the order of the Senate of January 6, 1999, the Secretary of the Senate, on November 3, 2000, during the recess of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 160. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The message also announced that the House has agreed to the amendments of the Senate to the joint resolution H.J. Res. 84) making further continuing appropriations for the fiscal year 2000, and for other purposes.

The message further announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 2796) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

At 12:30 p.m. today, a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5111. An act to direct the Administrator of the Federal Aviation Administration to treat certain property boundaries as the boundaries of the Lawrence County Airport, Courtland Alabama, and for other purposes.

H.R. 5477. An act to establish a moratorium on approval by the Secretary of the Interior of relinquishment of a lease of certain tribal lands in California.

H.R. 5630. An act to authorize appropriations for fiscal year 2001 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.J. Res. 125. Joint resolution making further continuing appropriations for the fiscal year 2001, and for other purposes.

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. 442. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 4986) to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2346) to authorize the enforcement by State and local governments of certain Federal Com-

munications Commission regulations regarding use of citizens band radio equipment.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on November 3, 2000, he had presented to the President of the United States, the following enrolled bills:

S. 484. An act to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 698. An act to review the suitability and feasibility of recovering costs of high altitude rescues at Denali National Park and Preserve in the State of Alaska, and for other purposes.

S. 700. An act to amend the National Trails System Act to designate the Ala Kahakai Trail as a National Historic Trail.

S. 893. An act to amend title 46, United States Code, to provide equitable treatment with respect to State and local income taxes for certain individuals who perform duties on vessels.

S. 938. An act to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park, and for other purposes.

S. 964. An act to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes.

The Secretary of the Senate reported that on November 6, 2000, he had presented to the President of the United States, the following enrolled bills:

S. 1438. An act to establish the National Law Enforcement Museum on Federal land in the District of Columbia.

S. 1474. An act providing conveyance of the Palmetto Bend project to the State of Texas.

S. 1482. An act to amend the National Marine Sanctuaries Act, and for other purposes.

S. 1752. An act to reauthorize and amend the Coastal Barrier Resources Act.

S. 1865. An act to provide grants to establish demonstration mental health courts.

S. 2345. An act to direct the Secretary of the Interior to conduct a special resource study concerning the preservation and public use of sites associated with Harriet Tubman located in Auburn, New York, and for other purposes.

S. 2413. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968 to clarify the procedures and conditions for the award of matching grants for the purchase of armor vests.

S. 2915. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

The Secretary of the Senate reported that on November 13, 2000, he had presented to the President of the United States, the following enrolled bills:

S. 11. An act for the relief of Wei Jingsheng.

S. 150. An act for the relief of Marina Khalina and her son, Albert Miftakhov.

S. 276. An act for the relief of Sergio Lozano.

S. 768. An act to amend title 18, United States Code, to establish Federal jurisdiction over offenses committed outside the United States by persons employed by or accompanying the Armed Forces, or by members of the Armed Forces who are released or separated from active duty prior to being identified and prosecuted for the commission of such offenses, and for other purposes.

S. 785. An act for the relief of Frances Schochenmaier and Mary Hudson.

S. 869. An act for the relief of Mina Vahedi Notash.

S. 1078. An act for the relief of Mrs. Elizabeth Eka Bassey, Emmanuel O. Paul Bassey, and Mary Idongesit Paul Bassey.

S. 1513. An act for the relief of Jacqueline Salinas and her children Gabriela Salinas, Alejandro Salinas, and Omar Salinas.

S. 1670. An act to revise the boundary of Fort Matanzas National Monument, and for other purposes.

S. 1880. An act to amend the Public Health Service Act to improve the health of minority individuals.

S. 1936. An act to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other National Forest System land in the State of Oregon and use the proceeds derived from the sale or exchange for National Forest System purposes.

S. 2000. An act for the relief of Guy Taylor.

S. 2002. An act for the relief of Tony Lara.

The Secretary of the Senate reported that on November 14, 2000, he had presented to the President of the United States, the following enrolled bills:

S. 2019. An act for the relief of Malia Miller.

S. 2020. An act to adjust the boundary of the Natchez Trace Parkway, Mississippi, and for other purposes.

S. 2289. An act for the relief of Jose Guadalupe Tellez Pinales.

S. 2440. An act to amend title 49, United States Code, to improve airport security.

S. 2485. An act to direct the Secretary of the Interior to provide assistance in planning and constructing a regional heritage center in Calais, Maine.

S. 2547. An act to provide for the establishment of the Great Sand Dunes National Park and Preserve and the Baca National Wildlife Refuge in the States of Colorado, and for other purposes.

S. 2712. An act to amend chapter 35 of title 31, United States Code, to authorize the consolidation of certain financial and performance management reports required of Federal agencies, and for other purposes.

S. 2773. An act to amend the Agricultural Marketing Act of 1946 to enhance dairy markets through dairy product mandatory reporting, and for other purposes.

S. 2789. An act to amend the Congressional Award Act to establish a Congressional Recognition for Excellence in Arts Education Board.

S. 3164. An act to protect seniors from fraud.

S. 3194. An act to designate the facility of the United States Postal Service located at 431 North George Street in Millersville, Pennsylvania, as the "Robert S. Walker Post Office."

S. 3239. An act to amend the Immigration and Nationality Act to provide special immigrant status for certain United States international broadcasting employees.

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-11437. A communication from the Director of the Office of Regulations Management, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled

“Reasonable Charges for Medical Care or Services” and companion Notice document” (RIN2900-AK39) received on November 1, 2000; to the Committee on Veterans’ Affairs.

EC-11438. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, a notice relative to the water quality cooperative agreement allocation; to the Committee on Environment and Public Works.

EC-11439. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report which includes a classified annex and covers defense articles and services that were licensed for export; to the Committee on Foreign Relations.

EC-11440. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment to Class E Airspace; Cameron, MO; docket No. 99-ACE-49 [3-30/11-2]” (RIN2120-AA66) (2000-0267) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11441. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Amendment to Jet Routes J78 and J112 Evansville, IN; docket No. 99-AGL-48 [3-3/11-2]” (RIN2120-AA66) (2000-0268) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11442. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 727-100 and 200 Series Airplanes Equipped with an Engine Nose Cowl for Eng Numbers 1 and 3 Installed in Accordance with STC SA4363NM; docket No. 2000-NM-249 [8-1/11-2]” (RIN2120-AA64) (2000-0527) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11443. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 767 Series Airplanes docket No. 98-NM-316 [8-1/11-2]” (RIN2120-AA64) (2000-0528) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11444. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Cessna Model 560XL Airplanes; docket No. 2000-NM-255 [8-8/11-2]” (RIN2120-AA64) (2000-0529) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11445. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: GE Company GE90 Series Turbofan Engines; docket No. 98-ANE-51 [2-7/11-2]” (RIN2120-AA64) (2000-0531) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11446. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Sikorsky Model S-61 Helicopters; docket No. 2000-SW-18 [7-3/11-2]” (RIN2120-AA64) (2000-0532) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11447. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled

“Airworthiness Directives: REVO inc. Models Lake LA4, LA4A, LA4P, LA 4 200, and Lake Model 250 Airplanes docket No. 99-CE-27 [5-26/11-2]” (RIN2120-AA64) (2000-0533) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11448. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Alexander Schlegel GmbH and CO Model ASW 27 Sailplanes; docket No. 99-CE-70 [3-8/11-2]” (RIN2120-AA64) (2000-0534) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11449. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: The New Piper Aircraft, Inc., PA-42 Series Airplanes; docket No. 2000-CE-20 [7-10/11-2]” (RIN2120-AA64) (2000-0535) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11450. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Mitsubishi Heavy Industries, Ltd MU-2B Series Airplanes; docket No. 97-CE-21 [7-24/11-2]” (RIN2120-AA64) (2000-0536) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11451. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 737-100, -200 Series Airplanes; docket No. 99-NM-320 [8-8/11-2]” (RIN2120-AA64) (2000-0537) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11452. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model DC 9-81, 9-82, 9-83, 9-87, and MD-88 Airplanes and Model MD 90-30 Series Airplanes; docket No. 99-NM-227 [8-8/11-2]” (RIN2120-AA64) (2000-0538) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11453. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model MD 11 Airplanes; docket No. 2000-NM-219 [8-8/11-2]” (RIN2120-AA64) (2000-0539) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11454. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: McDonnell Douglas Model MD 11 Airplanes; docket No. 2000-NM-218 [8-8/11-2]” (RIN2120-AA64) (2000-0540) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11455. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Bombardier Model C1-600-2B19 Airplanes; docket No. 98-NM-260 [7-24/11-2]” (RIN2120-AA64) (2000-0541) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11456. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: Boeing Model 737-757-767 and 777 Series Airplanes; docket No. 98-NM-355 [8-8/11-2]” (RIN2120-AA64) (2000-0542) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11457. A communication from the Program Analyst, Federal Aviation Commission, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Airworthiness Directives: GE Company CF34 Turbofan Engines; docket No. 99-NE-49 [207/11-2]” (RIN2120-AA64) (2000-0530) received on November 2, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11458. A communication from the Senior Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Civil Penalties” (RIN2127-AI18) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11459. A communication from the Chief, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Regatta Regulations; SLR; Fountain Power Boats Offshore Race, Pamlico River, Washington, North Carolina (CGD05-00-043)” (RIN2115-AE46) (2000-0017) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11460. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Physical Qualification of Drivers; Medical Examination; Certificate” (RIN2126-AA06) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11461. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Transportation of Household Goods in Interstate or Foreign Commerce; Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings” (RIN2126-AA56) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11462. A communication from the Regulations Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled “Guidelines for Development of Functional Specifications for Performance-Based Brake Testers Used to Inspect Commercial Motor Vehicles” (RIN2126-ZZ01) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11463. A communication from the Acting Legal Advisor, Cable Services Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Implementation of the Satellite Home Viewer Improvement Act of 1999: Application of Network Non-Duplication, Syndicated Exclusivity, and Sports Blackout Rule To Satellite Retransmissions of Broadcast Signals” (CS Docket No. 00-2, FCC 00-388) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11464. A communication from the Assistant Bureau Chief, International bureau Satellite and Radiocommunications Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled “Report and Order in the Matter of Availability of INTELSAT Space

Segment Capacity to Users and Service Providers Seeking to Access INTELSTAT Directly" (IB Docket No. 00-91, FCC 00-340) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11465. A communication from the Deputy Chief Counsel, Office of Pipeline Safety, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Hazardous Liquid Operators with 500 or more miles of Pipeline)" (RIN2137-AD45) received on November 9, 2000; to the Committee on Commerce, Science, and Transportation.

EC-11466. A communication from the Executive Director of the Marine Mammal Commission, transmitting, pursuant to a law, a report relative to commercial activities inventory; to the Committee on Governmental Affairs.

EC-11467. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a copy of a letter report entitled "Review of the Financial Transactions and Activities of Advisory Neighborhood Commission 8D for the Period October 1, 1997 through August 31, 2000"; to the Committee on Governmental Affairs.

EC-11468. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a copy of a letter report entitled "District's Unclaimed Property Program Needs Substantial Improvement"; to the Committee on Governmental Affairs.

EC-11469. A communication from the Benefits Manager, Rural America's Cooperative Bank, transmitting, pursuant to law, a report relative to the ACB Retirement Plan; to the Committee on Governmental Affairs.

EC-11470. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Identification of Approved and Disapproved Elements of the Great Lakes Guidance Submission From the State of Wisconsin, and Final Rule" (FRL #6896-9) received on November 2, 2000; to the Committee on Environment and Public Works.

EC-11471. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Wisconsin Designation of Areas for Air Quality Planning Purposes; Wisconsin" (FRL #6901-3) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11472. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Enhanced Motor Vehicle Inspection and Maintenance Program" (FRL #6897-4) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11473. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Florida" (FRL #6902-4) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11474. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Asbestos Worker Protection" (FRL #6751-3) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11475. A communication from the Deputy Associate Administrator, Environmental

Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List; Direct Final Process for Deletions" received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11476. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Rate-of-Progress Emission Reduction Plans" (FRL #6882-7) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11477. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Enhanced Motor Vehicle Inspection and Maintenance Program" (FRL #6882-5) received on November 2, 2000; to the Committee on Environment and Public Works.

EC-11478. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Massachusetts: Interim Authorization of State Hazardous Waste Management Program Revision" (FRL #6900-5) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11479. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104 "Announcement of Proposal Deadline for the Competition for the 2001 National Brownfields Assessment Demonstration Pilots" (FRL #6901-5) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11480. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104 "Announcement of Proposal Deadline for the Competition for Fiscal Year 2001 Supplemental Assistance to the National Brownfields Assessment Demonstration Pilots" (FRL #6901-6) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11481. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Control of Landfill Emissions From Municipal Solid Waste Landfills; State of Missouri" (FRL #6900-8) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11482. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Final Rule—Interpretive Clarification; Technical Correction" (FRL #6898-8) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11483. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Amend the Final Water Quality Guidance for the Great Lakes System to

Prohibit Micing Zones for Bioaccumulative Chemicals of Concern" (FRL #6898-7) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11484. A communication from the Director of the Office of Congressional Affairs, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Guidance on Managing Quality Assurance Records in Electronic Media" (NRC Regulatory Issue Summary 2000-18) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11485. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; New Hampshire—Nitrogen Oxides Budget and Allowance Trading Program" (FRL #6871-2) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11486. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans; Michigan" (FRL #6896-3) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11487. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Federal Guidance on the Use of In-Lieu-Fee Arrangements for Compensatory Mitigation Under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act" received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11488. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "OMB Approvals Under the Paperwork Reduction Act; Technical Amendment" (FRL #6899-72) received on November 9, 2000; to the Committee on Environment and Public Works.

EC-11489. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of Treasury, transmitting, pursuant to law, the report of a rule entitled "Allocation of Partnership Debt" (RIN1545-AX09) (TD 8906) received on November 2, 2000; to the Committee on Finance.

EC-11490. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments to the Customs Regulations" (T.D. 00-81) received on November 9, 2000; to the Committee on Finance.

EC-11491. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "African Growth and Opportunity Act and Generalized System of Preferences" (RIN1515-AC72) received on November 9, 2000; to the Committee on Finance.

EC-11492. A communication from the Acting Assistant General Counsel for Regulations, Office for Civil Rights, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Conforming Amendments to the Regulations Governing Nondiscrimination on the Basis of Race, Color, National Origin, Disability, Sex, and Age Under the Civil Rights Restoration Act of 1987" (RIN1870-AA10) received on November 2, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11493. A communication from the Acting Assistant General Counsel for Regulations, Office for Civil Rights, Department of Education, transmitting, pursuant to law,

the report of a rule entitled "Institutional Eligibility; Student Assistance General Provisions; Federal Work-Study Programs; and the Federal Pell Grant Program" (RIN1845-AA19) received on November 9, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11494. A communication from the Director of the Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Postmarking Studies for Approved Human Drug and Licensed Biological Products; Status Reports" (Docket No. 99N-1852) received on November 9, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11495. A communication from the Director of the Regulations Policy and Management Staff, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Gastroenterology and Urology Devices; Effective Date of the Requirement for Premarket Approval of the Implanted Mechanical/Hydraulic Urinary Containment Device; Correction" (Docket No. 94N-0380) received on November 9, 2000; to the Committee on Health, Education, Labor, and Pensions.

EC-11496. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Imported Fire Ant; Addition to Quarantined Areas" (Docket #00-07601) received on November 2, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-11497. A communication from the Associate Administrator, Livestock and Seed Program, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pork Promotion, Research, and Consumer Information Program: Amendment to Procedures for the Conduct of Referendum" (Docket #LS-00-10) received on November 2, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-11498. A communication from the Associate Administrator, Livestock and Seed Program, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Changes in Fees for Science and Technology (SandT) Laboratory Service" (Docket #SandT-99-008) received on November 2, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-11499. A communication from the Associate Administrator, Livestock and Seed Program, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Fresh Bartlett Pears Grown in Oregon and Washington; Decreased Assessment Rate" (Docket #FV00-931-1 FIR) received on November 2, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-11500. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sulfentrazone; Pesticide Tolerance for Emergency Exemptions" (FRL #6751-7) received on November 9, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-11501. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Copper Sulfate Pentahydrate; Exemption from the Requirement of a Tolerance" (FRL #6747-3) received on November 9, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-11502. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled

"Pyriproxyfen; Extension of Tolerance for Emergency Exemptions" (FRL #6753-3) received on November 9, 2000; to the Committee on Agriculture, Nutrition, and Forestry.

EC-11503. A communication from the Director of Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "Material Inspection and Receiving Report" (DFARS Case 2000-D008) received on October 26, 2000; to the Committee on Armed Services.

EC-11504. A communication from the Alternate Office of the Secretary of Defense Federal Register Liaison Officer, Department of Defense, transmitting, pursuant to law, the report of a rule entitled "TRICARE Dental Program—Final Rule" (RIN0720-AA58) received on October 26, 2000; to the Committee on Armed Services.

EC-11505. A communication from the Acting Director of the Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Maryland Regulatory Program" (MD-047-FOR) received on November 9, 2000; to the Committee on Energy and Natural Resources.

EC-11506. A communication from the Associate General Counsel for Legislation and Regulations, Office of the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Notice of Revised Contract Rent Annual Adjustment Factors" (FR-4626-N-01) received on November 9, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC-11507. A communication from the Director of Congressional Affairs, Overseas Private Investment Corporation, transmitting, a draft of proposed legislation entitled "Freedom of Information"; to the Committee on the Judiciary.

EC-11508. A communication from the National Treasurer of the Navy Wives Clubs of America, transmitting, pursuant to law, a report of an audit for the period of September 1, 1998 through August 31, 1999; to the Committee on the Judiciary.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself and Mr. HARKIN):

S. 3269. A bill to establish a Commission for the comprehensive study of voting procedures in Federal, State, and local elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. HATCH (for himself and Mr. CAMPBELL):

S. 3270. A bill to amend title XVIII of the Social Security Act to provide for a modification of medicare billing requirements for certain Indian providers; to the Committee on Finance.

By Mr. TORRICELLI:

S. 3271. A bill to require increased waste prevention and recycling measures to be incorporated in the daily operations of Federal agencies, and for other purposes; to the Committee on Governmental Affairs.

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. 384. A resolution relative to Rule XXXIII; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. TORRICELLI:

S. 3271. A bill to require increased waste prevention and recycling measures to be incorporated in the daily operations of Federal agencies, and other purposes; to the Committee on Governmental Affairs.

GREENING THE GOVERNMENT ACT OF 2000

Mr. TORRICELLI. Mr. President, I rise today to offer the "Greening the Government Act of 2000." This bill would allow the Federal Government to use its purchasing power to conserve natural resources, create markets for the materials that the American people recycle in their home and office recycling programs, and reduce the toxicity of products commonly used by establishing an infrastructure for coordinating and expanding Federal recycling and "green" purchasing activities.

The Federal Government spends \$275 billion each year buying goods and services. With this immense purchasing power, and through its research, development and assistance programs, it can influence markets to create more environmentally friendly products. Indeed, I believe that the Federal Government should be a leader in demonstrating how organizations can meet their mission in a cost-effective and environmentally protective way.

Tomorrow, we will celebrate America Recycles Day. Millions of Americans will re-dedicate themselves to recycling and, more importantly, closing the recycling loop by buying recycled content products. Hundreds of American companies are also recognizing the importance and cost-effectiveness of "greening" their operations. For instance, in my State of New Jersey, Telecordia Technologies has saved more than \$3 million by recycling 72 percent of its waste. Telecordia saves \$4,000 per week by simply replacing disposable cafeteria trays with recycled content plastic trays. I believe that the Federal Government can also achieve similar savings by "greening" its operations and encouraging environmental innovation. Indeed, the Federal Government's purchasing decisions can tremendously affect the environment we leave to future generations.

Building on the progress made during the past seven years under President Clinton's Executive Order 13101, "Greening the Government through Waste Prevention, Recycling, and Federal Acquisition," the Greening the Government Act of 2000 will establish a permanent infrastructure for coordinating, promoting, and expanding Federal recycling and "green" procurement activities. Under this legislation, the Environmental Protection Agency (EPA) will designate both recycled content products and environmentally

preferable products and services for Federal agencies to purchase. The U.S. Department of Agriculture (USDA) will also create a list of biobased products for agencies to consider purchasing. Federal agencies will then incorporate procurement of these USDA and EPA-designated products and services into their acquisition processes. Finally, Federal research and development monies, technology transfer programs, and assistance programs will be expanded to facilitate the development of greener technologies.

In 1994, approximately 12 percent of the copier paper purchased by the Federal Government was recycled content paper, and that contained only ten percent postconsumer (recycled content) fiber. President Clinton increased the Federal postconsumer content standard to 30 percent. Today, 98 percent of the copier paper purchased from the Government Printing Office and General Services Administration contains 30 percent postconsumer fiber. The Greening the Government Act of 2000 raises the Federal content standard to 40 percent postconsumer fiber and, for the first time, requires agencies both to consider purchasing office papers bleached without chlorine and to purchase wood products made with sustainably grown wood.

We all know that it is not easy to buy "green" products. It is my intention that the "Greening of the Government Act" will encourage manufacturers to identify their products as "green," making it easier for all Americans to buy these products. It is time that the Federal Government truly live up to the resource conservation goals first established by Congress in 1976 within the Resource Conservation and Recovery Act and become a true role model in our nation's conservation efforts.

ADDITIONAL COSPONSORS

S. 876

At the request of Mr. DORGAN, his name was added as a cosponsor of S. 876, a bill to amend the Communications Act of 1934 of require that the broadcast of violent video programming be limited to hours when children are not reasonably likely to comprise a substantial portion of the audience.

S. 3254

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island (Mr. L. CHAFEE), the Senator from Vermont (Mr. LEAHY), the Senator from Iowa (Mr. HARKIN), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Rhode Island (Mr. REED), and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 3254, a bill to provide assistance to East Timor to facilitate the transition of East Timor to an independent nation, and for other purposes.

S. 3259

At the request of Mr. MOYNIHAN, the name of the Senator from Michigan

(Mr. ABRAHAM) was added as a cosponsor of S. 3259, a bill to amend the Internal Revenue Code of 1986 to provide a rehabilitation credit for certain expenditures to rehabilitate historic performing arts facilities.

S.J. RES. 56

At the request of Mr. JOHNSON, his name was added as a cosponsor of S.J. Res. 56, a joint resolution proposing an amendment to the Constitution of the United States to abolish the electoral college and to provide for the direct popular election of the President and Vice President of the United States.

SENATE RESOLUTION 384— RELATIVE TO RULE XXXIII

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 384

Resolved, That, notwithstanding the provisions of Rule XXXIII, the Senate authorize the videotaping of the address by the Senator from West Virginia (Mr. Byrd) to the incoming Senators scheduled to be given in the Senate Chamber in December 2000.

AMENDMENTS SUBMITTED

COUNTERTERRORISM ACT OF 2000

KYL (AND OTHERS) AMENDMENT NO. 4358

Mr. KYL (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill (S. 3205) to enhance the capability of the United States to deter, prevent, thwart, and respond to international acts of terrorism against United States nationals and interests; as follows:

In section 2(a), strike paragraph (3) and insert the following:

(3) Seventeen United States sailors were killed in the attack, and thirty-nine were injured.

In section 2(b)(1), strike "take immediate actions" and insert "continue to take strong and effective actions".

In section 3, strike paragraph (8) and redesignate paragraphs (9), (10), (11), (12), and (13) as paragraphs (8), (9), (10), (11) and (12), respectively.

In section 3(10), as so redesignated, strike "There are 28 organizations" and all that follows through the end and insert the following: "There are currently 29 FTOs. The National Commission on Terrorism recommended that the Secretary of State ensure that the list of FTO designations is credible and updated regularly."

In section 3(12), as so redesignated, strike "Such controls were designed to prevent accidents, not theft."

In section 7(c)(1), strike subparagraphs (A) and (B) and insert the following:

(A) The Committees on Appropriations, Armed Services, and the Judiciary and the Select Committee on Intelligence of the Senate.

(B) The Committees on Appropriations, Armed Services, International Relations, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

In section 9(a), strike "the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 10(a), strike "Congress" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 12(a)(2)(A), insert after "the Secretary of Defense," the following: "the Secretary of Health and Human Services,".

In 12(a), add after paragraph (3) the following:

(4) The Attorney General shall consult with the Secretary of Health and Human Services in preparing any recommendations under paragraph (2)(B), and shall include in the report under paragraph (1) a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by such recommendations.

In section 12(b), add at the end the following: "The report shall include a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by the report."

COUNTERTERRORISM ACT OF 2000

Mr. WARNER. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 3205 and, further, the Senate 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. 3205) to enhance the capability of the United States to deter, prevent, thwart, and respond to international acts of terrorism against United States nationals and interests.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 4358

Mr. WARNER. Senators KYL and FEINSTEIN have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. KYL, for himself and Mrs. FEINSTEIN, proposes an amendment numbered 4358.

The amendment is as follows:

In section 2(a), strike paragraph (3) and insert the following:

(3) Seventeen United States sailors were killed in the attack, and thirty-nine were injured.

In section 2(b)(1), strike "take immediate actions" and insert "continue to take strong and effective actions".

In section 3, strike paragraph (8) and redesignate paragraphs (9), (10), (11), (12), and (13) as paragraphs (8), (9), (10), (11) and (12), respectively.

In section 3(10), as so redesignated, strike "There are 28 organizations" and all that follows through the end and insert the following: "There are currently 29 FTOs. The National Commission on Terrorism recommended that the Secretary of State ensure that the list of FTO designations is credible and updated regularly."

In section 3(12), as so redesignated, strike "Such controls were designed to prevent accidents, not theft."

In section 7(c)(1), strike subparagraphs (A) and (B) and insert the following:

(A) The Committees on Appropriations, Armed Services, and the Judiciary and the Select Committee on Intelligence of the Senate.

(B) The Committees on Appropriations, Armed Services, International Relations, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

In section 9(a), strike "the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 10(a), strike "Congress" and insert "the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives".

In section 12(a)(2)(A), insert after "the Secretary of Defense," the following: "the Secretary of Health and Human Services,".

In 12(a), add after paragraph (3) the following:

(4) The Attorney General shall consult with the Secretary of Health and Human Services in preparing any recommendations under paragraph (2)(B), and shall include in the report under paragraph (1) a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by such recommendations.

In section 12(b), add at the end the following: "The report shall include a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by the report."

Mr. LEAHY. Mr. President, Senators KYL and FEINSTEIN introduced S. 3205, the Counterterrorism Act of 2000, on October 12, 2000. They base their bill on recommendations made in a report called "Countering the Changing Threat of International Terrorism," issued on June 5, 2000 by the National Commission on Terrorism chaired by former Ambassador L. Paul Bremer III and Maurice Sonnenberg. The sponsors seek to have the Senate consider and pass the bill unanimously without hearings on its legislative language, without Committee consideration, without Senate debate and without amendment. In my efforts to be supportive of them I have shared with them concerns I have had about earlier versions of this legislation. In light of the improvements and corrections that the sponsors have now made, I am pleased to remove my objection to passage of the bill. I commend the sponsors for heeding constructive comments to improve the bill.

At the outset, I note that I have worked to help Senator KYL clear a number of matters of importance to him in this Congress. Most recently, the Senate passed on November 19, 1999, S. 692, the Internet Gambling Prohibition Act, and on September 28, 2000, repassed S. 704, the Federal Prisoner Health Care Copayment Act. Moreover,

in the past few months, we have worked together to confirm three more judges for Arizona.

In past Congresses, I have also worked closely with Senator KYL. For example, in the 104th Congress, Senators KYL, GRASSLEY and I worked together to enact the National Information Infrastructure Protection Act. This law increased protection under federal criminal law for both government and private computers, and addressed the emerging problem of computer-age blackmail in which a criminal threatens to harm or shut down a computer system unless certain extortion demands are met.

The NII Protection Act that I worked on with Senator KYL was intended to help law enforcement better address the problem of computer crime, in which cyber attacks are an important component. The Bremer-Sonnenberg Commission noted that, "[r]easonable experts have published sobering scenarios about the potential impact of a successful cyber attack on the United States. Already, hackers and criminals have exploited some of our vulnerabilities." In short, the Commission found that, "cyber security is a matter of grave importance."

As technology advances, the Congress must remain vigilant to ensure that our laws remain up to date and our local, State and federal law enforcement resources are up to the job posed by new technological challenges. That is why I have continued to work over this Congress with the Chairman of the Judiciary Committee and Senator SCHUMER on S. 2448, which the Senate Judiciary Committee unanimously reported favorably on October 5th for consideration by the Senate as the Internet Security Act amendment on another bill. This legislation would make changes to the federal Computer Fraud and Abuse statute and provide significant new resources to federal law enforcement for forensic computer crime work.

I have also been pleased to work with Senator DEWINE on S. 1314, the Computer Crime Enforcement Act, to help provide the necessary funding for training and equipment for state and local law enforcement to deal with computer crimes. The Senate Judiciary Committee unanimously reported this bill favorably to the Senate on September 21, 2000. Although he is not a cosponsor of these bills, I appreciate Senator KYL's support for both S. 2448 and S. 1314 as those bills moved through Committee. These complementary pieces of legislation reflect twin-track progress against computer crime: More tools at the federal level and more resources for local computer crime enforcement.

In addition, the Senate Judiciary Committee has considered and reported unanimously on May 18, 2000, S. 2089, the Counterintelligence Reform Act, which I was pleased to cosponsor with Senators SPECTER, TORRICELLI, and others. Senator KYL did not cosponsor this bill.

The Counterintelligence Reform Act is intended to improve the coordination within and among federal agencies investigating and prosecuting espionage cases and other cases affecting national security. Specifically, this legislation amends the Foreign Intelligence Surveillance Act to state explicitly that past activities of a target may be considered in determining whether there is probable cause to believe that the target of electronic surveillance is an "agent of a foreign power." This particular provision appears to address a criticism subsequently raised in the Bremer-Sonnenberg Commission report that the Office of Intelligence Policy and Review, which is the Justice Department unit responsible for preparing and presenting FISA applications to the FISA court, "does not generally consider the past activities of the surveillance target relevant in determining whether the FISA probable cause test is met."

The Bremer-Sonnenberg Commission report recommended that "the Attorney General should substantially expand" OIPR in order "[t]o ensure timely review of the Foreign Intelligence Surveillance Act applications." I concur with this recommendation. In fact, even before the Commission report was released and during Judiciary Committee consideration of S. 2089, I offered an amendment to S. 2089, which was approved by the Judiciary Committee, that would authorize an increase in the budget for OIPR from its current funding level of \$4,084,000 to \$7,000,000 for FY 2001, with increases up to \$8,000,000 over the following two years, for expanded personnel and technology resources. The Select Committee on Intelligence also approved this budget increase for OIPR upon consideration of S. 2089, which subsequently was passed by the Congress as part of the Intelligence Authorization Act, S. 2507.

Recently, the Congress passed as part of the conference report on the Trafficking Victims Protection Act, H.R. 3244, the Justice for Victims of Terrorism Act with an amendment that Senator FEINSTEIN and I authored dealing with support for victims of international terrorism. Senator KYL did not cosponsor this amendment. This amendment is intended to enable the Office for Victims of Crime to provide more immediate and effective assistance to Americans who are victims of terrorism abroad—Americans like those killed or injured in the embassy bombings in Kenya and Tanzania, and in the Pan Am 103 bombing over Lockerbie, Scotland. These victims deserve help, and the Leahy-Feinstein amendment will permit the Office for Victims of Crime to serve these victims better by expanding the types of assistance for which the VOCA emergency reserve fund may be used, and the range of organizations to which assistance may be provided. The amendment allows OVC greater flexibility in

using existing reserve funds to assist victims of terrorism abroad, including the victims of the Lockerbie and embassy bombings.

This provision will also authorize OVC to raise the cap on the VOCA emergency reserve fund from \$50 million to \$100 million, so that the fund is large enough to cover the extraordinary costs that would be incurred if a terrorist act caused massive casualties, and to replenish the reserve fund with unobligated funds from its other grant programs.

At the same time, the provision will simplify the presently-authorized system of using VOCA funds to provide victim compensation to American victims of terrorism abroad, by permitting OVC to establish and operate an international crime victim compensation program. This program will, in addition, cover foreign nationals who are employees of any American government institution targeted for terrorist attack. The source of funding is the VOCA emergency reserve fund, which we authorized in an amendment I offered to the 1996 Antiterrorism and Effective Death Penalty Act.

The Leahy-Feinstein provision also clarifies that deposits into the Crime Victims Fund remain available for intended uses under VOCA when not expended immediately.

As is apparent from the work we have done both in this Congress and in prior Congresses, we all share the interest and concern of the sponsors of S. 3205 in protecting our national security from the threat and risks posed by terrorists determined to harm this country and its citizens and helping victims of terrorist acts. Yet, I have been concerned that earlier versions of this bill posed serious constitutional problems and risks to important civil liberties we hold dear. Unlike the secret holds that often stop good bills from passing often for no good reason, I have had no secret holds on S. 3205 or earlier versions of this legislation. On the contrary, when asked, I have made no secret about the concerns I had with this legislation.

An earlier version of this legislation, which Senator KYL tried to move as part of the Intelligence Authorization bill, S. 2507, prompted a firestorm of controversy from civil liberties and human rights organizations, as well as the Department of Justice. For example, the Department of Justice opposed the amendment on myriad grounds, including that (1) the provision amending the wiretap statute to permit law enforcement officers to share foreign intelligence or counterintelligence information obtained under a title III wiretap with the intelligence community "could have significant implications for prosecutions and the discovery process in litigation"; (2) the provision giving the FBI sixty days to report on the feasibility of establishing a dissemination center within the FBI on international terrorism raised sufficiently significant issues that "do not

avail themselves of resolution in this very short time frame"; (3) the provision requiring the creation of a task force to disrupt the fundraising activities of international terrorist organizations would impose a "rigid, statutory mandate" that "would interfere with the need for flexibility in tailoring enforcement strategies and mechanisms to fit the enforcement needs of the particular moment"; and (4) the provision requiring the Attorney General to make legislative language recommendations on matters relating to biological pathogens were "invalid under the Recommendations Clause" and "interferes with the President's efforts to formulate and present his own recommendations and proposals and to control the policy agenda of his Administration."

Similarly, the Center for Democracy and Technology, the Center for National Security Studies and the American Civil Liberties Union, described in detail their concerns that "provisions in the Act pose grave threats to constitutional rights."

I shared many of the concerns of those organizations and the Justice Department, and note that the version of S. 3205 that we consider today addresses those concerns with substantial revisions to the original legislation. For example, no longer does the bill require a change in the wiretap statute allowing the permissive disclosure of information obtained in a title III wiretap to the intelligence agencies. No longer does the bill direct the Central Intelligence Agency to make legislative recommendations to enhance the recruitment of terrorist informants, without any countervailing considerations. Instead, the bill now requests a more balanced picture of the policy considerations that prompted the 1995 guidelines on the use of terrorists as informants and the limitations that may be necessary to assure that the United States does not encourage human rights abuse abroad.

After the bill was introduced, I first advised the sponsors of the bill and then the Senate about the remaining areas of concern that should be fixed in the bill before Senate passage.

In this regard, I note that Senator KYL suggested to the Senate on October 25th that if the Justice Department was satisfied with his legislation, I or my staff had earlier indicated that I would be satisfied. I respect the expertise of the Department of Justice and the many fine lawyers and public servants who work there and, where appropriate, seek out their views, as do many Members. That does not mean that I always share the views of the Department of Justice or follow the Department's preferred course and recommendations without exercising my own independent judgment. I would never represent that if the Justice Department were satisfied with his bill, I would automatically defer to their view. Furthermore, my staff has advised me that no such representation was ever made.

I am pleased that the further corrections to and refinements of this bill have now been made and that the version of the bill that the Senate is now being asked to consider and pass has been improved. First, the bill now contains the correct numbers of sailors killed and injured in the sense of the Congress concerning the tragic bombing attack on the U.S.S. *Cole*. I believe that each of the 17 sailors killed and 39 sailors injured deserve recognition and that the full scope of the attack should be properly reflected in this Senate bill. I commend the sponsors of the bill for correcting this part of the bill.

Second, the sense of the Congress originally urged the United States Government to "take immediate actions to investigate rapidly the unprovoked attack on the" U.S.S. *Cole*, without acknowledging the fact that such immediate action has been taken. In fact, the Navy began immediate investigative steps shortly after the attack occurred, and the FBI established a presence on the ground and began investigating within 24 hours. The Director himself went to Yemen to guide this investigation. That investigation is active and ongoing, and no Senate bill should reflect differently, as this one originally did. The corrected bill now urges the government "to continue to take strong and effective actions" to investigate this attack. I commend the Administration for the swift and immediate actions it has taken to investigate this attack and the strong statements made by the President making clear that no stone will be left unturned to find the criminals who planned this bloody attack.

Third, the "Findings" section of this bill contained several factual errors or inaccuracies that are now corrected. For example, the original bill stated that there are "38 organizations" designated as Foreign Terrorist Organizations (FTOs) when there are currently 29, which has been corrected. The original bill stated that "current practice is to update the list of FTOs every two years" when in fact the statute requires redesignation of FTOs every two years. This statement has been corrected. The original bill stated that current controls on the transfer and possession of biological pathogens were "designed to prevent accidents, not theft," which according to the Justice Department is simply not accurate. This inaccurate statement has been eliminated.

Fourth, the original bill required reports on issues within the jurisdiction of the Senate Judiciary Committee without any direction that those reports be submitted to that Committee. For example, section 9 of the bill required the FBI to submit to the Select Committees on Intelligence of the Senate and the House a feasibility report on establishing a new capability within the FBI for the dissemination of law enforcement information to the intelligence community. My suggestion that these reports also be required to

be submitted to the Judiciary Committee has been adopted.

Fifth, the bill requires reports, with recommendations for appropriate legislative or regulation changes, by the Attorney General and the Secretary of Health and Human Services on safeguarding biological pathogens at research labs, pharmaceutical companies and other facilities in the United States. No definition of "biological pathogen" is included in the bill and the scope of these reports could therefore cover a vast array of biological materials. To address this concern over the potentially broad focus of this provision, the bill has been amended to include a direction to the Attorney General and the Secretary of Health and Human Services to define and determine the type and classes of pathogens that should be covered by any recommendations.

Finally, the bill would require reimbursement for professional liability insurance for law enforcement officers performing official counterterrorism duties and for intelligence officials performing such duties outside the United States. I scoured the record in vain for explanatory statements by the sponsors of this bill about their views on the need for this provision. Current law curiously provides for payments of only half the costs of professional liability insurance for law enforcement officers and federal judges to cover the costs of legal liability for damages resulting from any tortious act, error of omission while in the performance of the employee's duties and the costs of legal representation in connection with any administrative or judicial proceeding relating to such act, error or omission. 5 U.S.C. § 5941 prec. note. The Bremer-Sonnenberg Commission report recommended that the Congress amend current law to mandate full reimbursement of the costs of personal liability insurance for FBI and CIA counterterrorism agents. In light of this explanation, I am prepared to proceed while noting that this is an area that deserves more comprehensive review. The same reasons for providing full reimbursement for counterterrorism officers may apply to other law enforcement and intelligence officers.

The bill has been greatly improved since its first iteration, and I am pleased to withdraw my objection.

Mr. WARNER. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 4358) was agreed to.

Mr. WARNER. I ask unanimous consent the bill be read a third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements relating to this bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3205), as amended, was read the third time and passed, as follows:

S. 3205

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 "Counterterrorism Act of 2000".

SEC. 2. SENSE OF CONGRESS ON THE ATTACK ON THE U.S.S. COLE.

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

(1) On October 12, 2000, the United States naval vessel U.S.S. Cole was attacked in Aden, Yemen.

(2) The attack occurred while the U.S.S. Cole was refueling, and was unprovoked.

(3) Seventeen United States sailors were killed in the attack, and thirty-nine were injured.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

(1) continue to take strong and effective actions to investigate rapidly the unprovoked attack on the United States naval vessel U.S.S. Cole;

(2) ensure that the perpetrators of this cowardly act are swiftly brought to justice; and

(3) take appropriate actions to protect from terrorist attack all other members and units of the United States Armed Forces that are deployed overseas.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) The Commission on National Security in the 21st Century, chaired by former Senators Hart and Rudman, concluded that "[s]tates, terrorists, and other disaffected groups will acquire weapons of mass destruction and mass disruption, and some will use them. Americans will likely die on American soil, possibly in large number."

(2) United States counterterrorism efforts must be improved to meet the evolving threat of international terrorism against United States nationals and interests. The bipartisan National Commission of Terrorism chaired by Ambassador Paul Bremer and Maurice Sonnenberg was mandated by Congress to evaluate current United States policy and make recommendations on improvements. This Act stems from the findings and recommendations of that Commission.

(3) The face of terrorism has changed significantly over the last 25 years. With the fall of the Soviet Union, many state-sponsored terrorist groups have been replaced by more loosely knit organizations with varying motives. These transnational terrorist networks are more difficult to track and penetrate than state sponsored terrorist groups, and their actions are more difficult to predict.

(4) State support of terrorism has not disappeared. Despite political change in Iran, the country continues to be the foremost state sponsor of terrorism in the world. In April 2000, the Department of State issued "Patterns of Global Terrorism", which provides a detailed account of Iran's continued support of terrorism.

(5) According to the report of the National Commission on Terrorism, there are indications of Iranian involvement in the 1996 bombing of the Khobar Towers complex in Saudi Arabia, in which 19 United States soldiers were killed and more than 500 injured. In October 1999, President Clinton officially requested cooperation from Iran in the investigation of the bombing. Thus far, Iran has not responded to this request.

(6) Terrorist attacks are becoming more lethal. A growing number of terrorist attacks are designed to kill the maximum number of people. Although conventional explosives

have remained the weapon of choice, terrorist groups are investing in the acquisition of unconventional weapons such as nuclear, chemical, and biological agents.

(7) Syria was placed on the first list of state-sponsors of terrorism by the United States Government in 1979, due to its long history of using terrorism to advance its interests. Syria continues to support terrorist training and logistics.

(8) According to the National Commission on Terrorism, the 1995 guidelines of the Central Intelligence Agency on the use of terrorists as informants set up complex procedures for seeking approval to recruit as informants terrorists who have been involved in human rights violations. That Commission found that these guidelines have inhibited the recruitment of essential, if sometimes unsavory, terrorist informants. As a result, that Commission concluded that the United States has relied too heavily on foreign intelligence services in attempting to uncover information about terrorist organizations.

(9) No other country, much less any sub-national organization, can match United States scientific and technological prowess (including quality control) in biotechnology and pharmaceutical production, electronics, computer science, and other pursuits that could help overcome and defeat the technologies used by future terrorists.

(10) Currently, the United States focuses its efforts to discourage private financial support to terrorists on prosecutions under the provisions of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) and the amendments made by that Act. Under an amendment made by that Act, section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) requires the Secretary of State to designate groups that threaten United States interests and security as Foreign Terrorist Organizations (FTOs). There are currently 29 FTOs. The National Commission on Terrorism recommended that the Secretary of State ensure that the list of FTO designations is credible and updated regularly.

(11) It is in the interest of the United States that the Federal Government take a broader approach to cutting off the flow of financial support for terrorism from within the United States. Anyone providing to terrorist organizations funds that he or she knows will be used to support terrorist acts should be prosecuted under all relevant statutes, including statutes addressing money laundering, conspiracy, and tax or fraud violations. In addition, Federal agencies such as the Office of Foreign Assets Control (OFAC) of the Internet Revenue Service and the Customs Service should be better utilized to thwart terrorist fundraising. Such activities should not violate constitutional rights and values.

(12) Current controls on the transfer and possession of biological pathogens that could be used in biological weapons are inadequate. Controls on the equipment needed to turn such pathogens into weapons are virtually nonexistent. The National Commission on Terrorism concluded that the standards for the storage, transport, and handling of biological pathogens should be as rigorous as the current standards for the physical protection and security of critical nuclear materials.

SEC. 4. SYRIA.

It is the sense of Congress that the United States should keep Syria on the list of countries who sponsor terrorism until Syria—

(1) shuts down training camps and other terrorist support facilities in Syrian-controlled territory; and

(2) prohibits financial or other support of terrorists through Syrian-controlled territory.

SEC. 5. IRAN.

It is the sense of Congress that the United States should keep Iran on the list of countries who sponsor terrorism, and make no concessions to Iran, until Iran—

(1) demonstrates that it has stopped supporting terrorism; and

(2) cooperates fully with the United States in the investigation into the 1996 bombing of the Khobar Towers complex in Saudi Arabia.

SEC. 6. GUIDELINES ON RECRUITMENT OF TERRORIST INFORMANTS.

(a) **REPORT ON GUIDELINES.**—Not later than six months after the date of the enactment of this Act, the Director of Central Intelligence shall submit to Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, a report on the Director's response to the findings of the National Commission on Terrorism regarding the recruitment of terrorist informants.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall set forth the following:

(1) A detailed response to the findings referred to in that subsection, and a detailed description of any other policy considerations that prompted the 1995 guidelines of the Central Intelligence Agency on the use of terrorists as informants.

(2) Recommendations, if any, for legislation to enhance the recruitment of terrorist informants, including any limitations that may be necessary to assure that the United States does not encourage human rights abuse abroad.

SEC. 7. REVIEW OF AUTHORITY OF FEDERAL AGENCIES TO ADDRESS CATASTROPHIC TERRORIST ATTACKS.

(a) **REVIEW REQUIRED.**—The Attorney General shall conduct a review of the legal authority of various Federal agencies, including the Department of Defense, to respond to, and to prevent, pre-empt, detect, and interdict, catastrophic terrorist attacks.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Attorney General shall submit to the appropriate committees of Congress a report on the review conducted under subsection (a). The report shall include any recommendations that the Attorney General considers appropriate, including recommendations whether additional legal authority for particular Federal agencies is advisable in order to enhance the capability of the Federal Government to respond to, and to prevent, pre-empt, detect, and interdict, catastrophic terrorist attacks.

(c) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term "appropriate committees of Congress" means the following:

(A) The Committees on Appropriations, Armed Services, and the Judiciary and the Select Committee on Intelligence of the Senate.

(B) The Committees on Appropriations, Armed Services, International Relations, and the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) **CATASTROPHIC TERRORIST ATTACK.**—The term "catastrophic terrorist attack" means a terrorist attack against the United States perpetrated by a state, substate, or nonstate actor that involves mass casualties or the use of a weapon of mass destruction.

SEC. 8. LONG-TERM RESEARCH AND DEVELOPMENT TO ADDRESS CATASTROPHIC TERRORIST ATTACKS.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) there has not been sufficient emphasis on long-term research and development on technologies useful in fighting terrorism; and

(2) the United States should make better use of its considerable accomplishments in

science and technology to prevent or address terrorist attacks in the future, particularly attacks involving chemical, biological, or nuclear agents.

(b) **ESTABLISHMENT OF PROGRAM.**—Not later than one year after the date of the enactment of this Act, the President shall establish a comprehensive program (including a comprehensive set of requirements for the program) of long-term research and development relating to science and technology necessary to prevent, pre-empt, detect, interdict, and respond to catastrophic terrorist attacks.

(c) **REPORT ON PROPOSED PROGRAM.**—Not later than 30 days before the commencement of the program required by subsection (b), the President shall submit to Congress a report on the program. The report on the program shall include the following:

(1) A description of the proposed organization and mission of the program.

(2) A description of the current capabilities of the Federal Government to rapidly identify and contain an attack in the United States involving chemical or biological agents, including any proposals for future enhancements of such capabilities that the President considers appropriate.

(d) **CATASTROPHIC TERRORIST ATTACK DEFINED.**—In this section, the term "catastrophic terrorist attack" means a terrorist attack against the United States perpetrated by a state, substate, or nonstate actor that involves mass casualties or the use of a weapon of mass destruction.

SEC. 9. DISSEMINATION OF LAW ENFORCEMENT INFORMATION TO THE INTELLIGENCE COMMUNITY.

(a) **REPORT ON ESTABLISHMENT OF INTELLIGENCE REPORTING FUNCTION.**—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report on the feasibility of establishing within the Bureau a comprehensive intelligence reporting function having the responsibility for disseminating among the elements of the intelligence community information collected and assembled by the Bureau on international terrorism and other national security matters.

(b) **REPORT ELEMENTS.**—The report under subsection (a) shall include the following:

(1) A description of the requirements applicable to the creation of the function referred to in that subsection, including the funding required for the function.

(2) A discussion of the legal and policy issues, including any reasonable restrictions on the sharing of information and the potential effects on open criminal investigations, associated with disseminating to the elements of the intelligence community law enforcement information relating to international terrorism and other national security matters.

SEC. 10. DISCLOSURE BY LAW ENFORCEMENT AGENCIES OF CERTAIN INTELLIGENCE OBTAINED BY INTERCEPTION OF COMMUNICATIONS.

(a) **REPORT ON AUTHORITIES RELATING TO SHARING OF CRIMINAL WIRETAP INFORMATION.**—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives a report on the legal authorities that govern the sharing of criminal wiretap information under relevant United

States laws, including section 104 of the National Security Act of 1947 (50 U.S.C. 403-4). The report shall include—

(1) a description of the type of information that can be shared by the Department of Justice or other United States law enforcement agencies with elements of the United States intelligence community, including a description of all such information that the Department of Justice or other such law enforcement agencies currently share with elements of the United States intelligence community and the legal limitations if any, that apply to the use of such information by elements of the intelligence community; and

(2) recommendations, if any, for such legislative language as the President considers appropriate to improve the capability of the Department of Justice, or other law enforcement agencies, to share foreign intelligence information or counterintelligence information with elements of the United States intelligence community on matters such as counterterrorism.

(b) **DEFINITIONS.**—As used in this section, the terms "foreign intelligence" and "counterintelligence" have the meanings given those terms in paragraphs (2) and (3), respectively, of section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

SEC. 11. JOINT TASK FORCE ON TERRORIST FUNDRAISING.

(a) **SENSE OF CONGRESS.**—It is the sense of the Congress that—

(1) many terrorist groups secretly solicit and exploit the resources of international nongovernmental organizations, companies, and wealthy individuals;

(2) the Federal Government could do more to utilize all the tools available to the Federal Government to prevent, deter, and disrupt the fundraising activities of international terrorist organizations; and

(3) the employment of any such tools to combat terrorism must not violate speech, association, and equal protection rights guaranteed by the Constitution of the United States.

(b) **ESTABLISHMENT OF JOINT TASK FORCE.**—Not later than six months after the date of the enactment of this Act, the President shall establish a joint task force for purposes of developing and implementing a broad approach toward discouraging the fundraising activities of international terrorist organizations. The approach shall utilize all criminal, civil, and administrative sanctions available under Federal law, including sanctions for money laundering, tax and fraud violations, and conspiracy. The approach shall not infringe upon constitutional and civil rights in the United States.

(c) **REPORT.**—Not later than one year after the date of the enactment of this Act, the joint task force established under subsection (b) shall submit to Congress a report on the activities of the joint task force. The report shall include any findings and recommendations (including recommendations for modifications of United States law or policy) that the joint task force considers appropriate regarding United States efforts to thwart the fundraising activities of international terrorist organizations while protecting constitutional and civil rights in the United States.

SEC. 12. IMPROVEMENT OF CONTROLS ON PATHOGENS AND EQUIPMENT FOR PRODUCTION OF BIOLOGICAL WEAPONS.

(a) **REPORT ON IMPROVEMENT OF CONTROLS.**—(1) Not later than one year after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on the means of improving United States controls of biological pathogens and the equipment necessary to develop, produce, or deliver biological weapons.

(2) Subject to paragraph (3), the report under paragraph (1) should include the following:

(A) A list of the equipment identified by the Attorney General, in consultation with the Secretary of Defense, the Secretary of Health and Human Services, the Director of Central Intelligence, other appropriate Federal officials, and other appropriate members of public and private organizations, as critical to the development, production, or delivery of biological weapons.

(B) Recommendations, if any, for such legislative language as the Attorney General considers appropriate to make illegal the possession of the biological pathogens by anyone who is not properly certified for the possession of such pathogens, or for other than a legitimate purpose.

(C) Recommendations, if any, for such legislative language as the Attorney General considers appropriate to control the domestic sale and transfer of the equipment identified under subparagraph (A), including any appropriate steps to track, tag, or otherwise mark or monitor such equipment.

(3) The recommendations of the Attorney General under paragraph (2) shall take into consideration the impact of additional controls on legitimate industrial or medical activities, and shall include an assessment of the economic and scientific effects of such controls on such activities.

(4) The Attorney General shall consult with the Secretary of Health and Human Services in preparing any recommendations under paragraph (2)(B), and shall include in the report under paragraph (1) a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by such recommendations.

(b) IMPROVED SECURITY OF FACILITIES.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with other appropriate Federal officials and appropriate members of public and private organizations, shall submit to Congress a report with detailed analysis and recommendations for appropriate regulations, or modifications to current law, to enhance the standards for the physical protection and security of the biological pathogens described in subsection (a) at research laboratories and other facilities in the United States that create, possess, handle, store, or transport such pathogens in order to protect against the theft or other diversion for illegitimate purposes of such pathogens from such laboratories and facilities. The report shall include a detailed description of the methodology and criteria used to define and determine the types and classes of pathogens covered by the report.

SEC. 13. REIMBURSEMENT OF PERSONNEL PERFORMING COUNTERTERRORISM DUTIES FOR PROFESSIONAL LIABILITY INSURANCE.

(a) REQUIREMENT FOR FULL REIMBURSEMENT.—(1) Notwithstanding any other provision of law and subject to paragraph (2), the head of an agency employing a qualified employee shall reimburse the qualified employee for the costs incurred by the qualified employee for professional liability insurance.

(2) Reimbursement of a qualified employee under paragraph (1) shall be contingent on the submission by the qualified employee to the head of the agency concerned of such information or documentation as the head of the agency concerned shall require.

(3) Amounts for reimbursements under paragraph (1) shall be derived from amounts available to the agency concerned for salaries and expenses.

(b) QUALIFIED EMPLOYEE.—For purposes of this section, the term “qualified employee”

means an employee of an agency whose position is that of—

(1) a law enforcement officer performing official counterterrorism duties; or

(2) an official of an element of the intelligence community performing official counterterrorism duties outside the United States.

(c) DEFINITIONS.—In this section:

(1) AGENCY.—The term “agency” means any Executive agency, as that term is defined in section 105 of title 5, United States Code, and includes any agency of the Legislative Branch of Government.

(2) ELEMENT OF THE INTELLIGENCE COMMUNITY.—The term “element of the intelligence community” means any element of the intelligence community specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) LAW ENFORCEMENT OFFICER; PROFESSIONAL LIABILITY INSURANCE.—The terms “law enforcement officer” and “professional liability insurance” have the meanings given those terms in section 636(c) of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (5 U.S.C. prec. 5941 note).

Mrs. FEINSTEIN. Mr. President, today the Senate passed by unanimous consent important legislation Senator KYL and I sponsored that seeks to improve the United States’ ability to prevent and respond to terrorist attacks. This bill, S. 3205, the Counterterrorism Act of 2000—together with a Kyl-Feinstein amendment making a few technical changes—implements major recommendations from a bipartisan, blue-ribbon commission on terrorism.

Let me describe what the bill would do. First, it urges that the U.S. government continue to take strong and effective actions to investigate the recent attack on the U.S.S. *Cole* and ensure that the perpetrators are brought to justice. The assault on the *Cole* is the worst against the U.S. military since the bombing of an Air Force barracks in Saudi Arabia killed 19 airmen in 1996. It is also the worst attack on a Navy ship since an Iraqi missile struck an American guided-missile frigate in 1987, killing 37 sailors.

Second, the bill requires the Department of Justice to review legal authority of federal agencies responsible for responding to a catastrophic terrorist attack and determine whether additional legal authority is necessary.

Third, the bill requires the president to establish a program for long-term research and development to counter catastrophic terrorist attacks and submit a report to Congress on this program. It also expresses the sense of Congress that there should be more long-term research and development in this area.

Fourth, the bill mandates that the attorney general issue a report on how to improve U.S. controls on biological pathogens and the equipment necessary to produce biological weapons, and requires the Health & Human Services secretary to issue a report on any appropriate actions that should be taken to protect against unlawful diversion of pathogens.

Fifth, the bill requires that the president establish a joint task force to de-

velop a broad approach toward discouraging the fundraising activities of international terrorist organizations and that the task force issue a report.

Sixth, the bill requires the FBI to report on whether it can set up a central mechanism to distribute intelligence information it gleans about international terrorists to other members of the intelligence community.

Seventh, the bill directs the president to review the type of information shared by U.S. law enforcement agencies and intelligence agencies as well as legal limitations on the sharing of this information. The president shall provide any recommendations regarding the sharing of foreign intelligence or counterintelligence information between such agencies.

Eighth, the bill mandates that the CIA shall issue a report responding to the Commission on Terrorism’s finding that the CIA should scrap an internal classified guideline requiring CIA agents to get approval from headquarters before recruiting unsavory individuals to act as informants about terrorism.

Ninth, the bill expresses the Sense of Congress that Syria and Iran should remain on the list of countries that sponsor terrorism.

Finally, the bill would ensure that federal counterintelligence personnel be fully reimbursed for buying insurance they purchase to protect themselves from liability if they are sued for their officially authorized activities. Currently, the government reimburses federal criminal law enforcement officers, supervisors, and management officials for one-half of their insurance expenses. These individuals purchase professional liability insurance because government representation may not be available to them.

However, FBI special agents and CIA officers who do counterterrorism work may not be reimbursed at all when they buy such insurance. This is particularly unfortunate because counterterrorism work is so risky—especially when the work occurs overseas. There can be few more dangerous tasks than infiltrating a terrorist cell in, say, Yemen or Afghanistan.

The Kyl-Feinstein Counterterrorism Act of 2000 is not a panacea for the problem of terrorism. Rather, it seeks to implement a number of specific improvements to our counterterrorism policy unanimously suggested by the Commission on Terrorism, a bipartisan group of experts.

The bill also lays the groundwork for a number of further improvements. We will be revisiting many of the issues covered by the bill in the next Congress once we receive more detailed information and recommendations from the Executive Branch. I look forward to working with my colleagues in Congress and with the next Administration to implement S. 3205.

I believe that we need to take strong action to combat terrorism. There is no question that terrorist attacks will

continue and that they will become more deadly. Terrorists today often act out of a visceral hatred of the U.S. or the West and seek to wreak maximum destruction and kill as many people as possible.

At the same time, I believe that our counterterrorism policy must be conducted in a way that remains consistent with our democratic values and our commitment to an open, free society.

In many ways, the Kyl-Feinstein Counterterrorism Act of 2000 is a counterpart bill to the Justice for Victims of Terrorism Act that recently passed the Senate 95 to 0. That legislation, which I cosponsored, will make it easier for American victims of terrorism abroad to collect court-awarded compensation and ensure that the state sponsors of terrorism pay a price for their crimes.

While I strongly support assisting terrorist victims, I also believe that we need to do more to prevent Americans from becoming victims of terrorism in the first place. Thus, I am glad that the Senate has acted to pass S. 3205 with such dispatch. It is crucial to act now before terrorists strike again, killing and injuring more Americans and leaving more families grieving. I urge the House to pass S. 3205 before we adjourn.

In conclusion, I want to thank my good friend Senator KYL for his tireless efforts to get this bill passed. His work, as always, has been invaluable.

I also thank my other colleagues for their assistance in helping us pass this bill. I know Senator LEAHY, for instance, initially had a number of concerns with the legislation. I am grateful for the time he spent working through these issues with us, and I am glad that we can move this bill forward unanimously.

UNANIMOUS CONSENT AGREEMENT—H.R. 5633

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 5633, the appropriations bill to fund the District of Columbia, if the text is identical to the text I now send to the desk, then the bill be considered passed and the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I now send the text of the bill to the desk.

The PRESIDING OFFICER. The bill will be received.

ORDERS FOR TUESDAY, DECEMBER 5, 2000

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it recess until the hour of 12 noon on Tuesday, December 5, under the provisions of H. Con. Res. 442.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I further ask consent that when the Senate reconvenes on Tuesday, December 5, the Journal of proceedings be approved to date, and following the leaders' time, there be a period for the transaction of morning business until the hour of 12:30 p.m., with Members permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. The Senate will be considering a continuing resolution on Tuesday, December 5, and may be considering other legislative items. Therefore, votes could occur during Tuesday's session of the Senate. All Senators will be notified via the hotline system as to those votes when it becomes clear as to their time.

Again, I wish all Senators a safe and happy Thanksgiving. I do that on behalf of the bipartisan leadership in the Senate. I look forward to working with all Senators when they return on Tuesday, the 5th.

ORDER FOR RECESS

Mr. WARNER. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the provisions of H. Con. Res. 442, following the remarks of Senator DASCHLE, should he seek the floor, for such period not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. 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. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE BUSINESS AND ELECTIONS

Mr. DASCHLE. Mr. President, although the Senate will not resume work in earnest today on the issues remaining before the 106th Congress, we certainly hope that when we do return on the 5th of December we will be able to complete action on the appropriations bills, the minimum wage increase, the Balanced Budget Refinement Act, and deal with the immigration issue, as well as a fair and balanced tax relief package.

In the 3 weeks until then, I certainly hope that both parties and the administration will redouble their efforts to reach agreement on these important issues. We do not have to wait until we get back. It is so troubling that we are so close to the end of the calendar year and we do not have as much to show for

our efforts over the last 2 years as I would have liked.

The lameduck session will give us an opportunity to make progress on each of those issues. I hope we will seize that opportunity.

I have spoken with the majority leader about this issue, and about our desire to complete our work in a positive way. I think we agree: We need to work closely together in the final days of this Congress. He certainly reiterated his desire to do that.

When we left before the election, everyone assumed we would return to a relative certainty. We assumed we would have a President-elect. We assumed we would know the balance of power in the next Congress. Of course, to everyone's surprise, we still do not know either of these things.

The situation in which we now find ourselves is virtually unprecedented. It certainly is unusual. But with the elections this close, a period of uncertainty is certainly unavoidable.

While none of us has ever seen such a close Presidential election, some of us have seen this on a smaller scale. I am one of those people.

In 1978, in my first race for election to the House of Representatives, I was behind by 28 votes at the end of election night and was declared the loser. The next day, amid much confusion, I was actually declared the winner by 14 votes. Talk about a roller coaster ride. And that was just the first day.

Over the next few months, after more recounts, and the discovery of computational errors, and more confusion, the election went all the way to the South Dakota Supreme Court.

In August of 1979, the court heard oral arguments and examined every ballot.

Finally, on November 27, 1979—more than a year after the election—the South Dakota Supreme Court issued its decision. It added 5 more votes to the earlier total and declared me the winner by a margin of 110 votes, which I like to say in South Dakota is about 60 percent.

In recounting this story, I am not suggesting that we can afford to take that much time in getting a fair and accurate count in this Presidential election. Clearly, because of the surpassing importance of the Presidency, this election must be decided on an expedited basis. I am confident that it will be.

Instead, I tell this story to illustrate the point that our system has dealt successfully with close elections in the past.

My first race for Congress is just one example. There are many others. Even as we speak, votes are still being counted in another too-close-to-call race: the Senate race in Washington State.

Since last Tuesday, many colleagues have told me of similar experiences in their own elections. To a person, they all agree that the important thing is to take whatever time is needed to get a

fair and accurate vote count. That is the only way to maintain public confidence in the outcome of the election. So yes, this is an unusual situation. But it is not a constitutional crisis.

In a Newsweek poll taken over the weekend, Americans were asked which was more important: Resolving the uncertainty over the election now so we know who the next President will be Or making certain to remove all reasonable doubt that the vote count in Florida is fair and accurate.

By a margin of 3 to 1, Americans say it is more important to get the results right than to get them right now.

Their response is proof of their faith in our system of government.

It is a system of unequaled strength and stability. And it should be allowed to work.

What we all need right now is patience.

What we do not need is "spin" from people with vested interests in the outcome.

It was particularly disturbing earlier today to see a representative of the Bush campaign on national television announce what he called a "compromise offer."

In fact, his proposal merely restated his campaign's previous position that ballots counted by hand after 5 o'clock this evening should be ignored.

He then went on to cite fluctuations in the stock market as proof that a winner must be declared in the presidential election now—even if it means sacrificing a full and fair count.

I hope that everyone involved in this critically important matter would refrain from such overheated rhetoric. It is not helpful to this process. We are all anxious to know who our next President is. We all want finality. But not at the expense of fairness.

That is what the Vice President wants.

That is what the American people want. That is what I believe Democrats and Republicans want.

That is what is needed to reassure voters in Florida and all across America that their votes in this election counted.

That is what is needed for Americans to reassure Americans that their faith in our election system is well-founded.

Regardless of who they voted for as long as Americans have this reassurance I believe they will accept the out-

come of this election and give our next President their support.

It is worth exercising a little patience to get that result.

I yield the floor.

RECESS UNTIL TUESDAY,
DECEMBER 5, 2000

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess.

Thereupon, the Senate, at 4:31 p.m., recessed until Tuesday, December 5, 2000, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate November 14, 2000:

DEPARTMENT OF STATE

LARRY CARP, OF MISSOURI, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

RICHARD N. GARDNER, OF NEW YORK, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

JAY T. SNYDER, OF NEW YORK, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FIFTY-FIFTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

EXTENSIONS OF REMARKS

HONORING THE SPORLEDER FAMILY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. SCHAFFER. Mr. Speaker, on Monday, November 13, the Colorado Association of Soil Conservation Districts held its 56th annual meeting in Grand Junction, Colorado. This association gathers every year to recognize two land owners who have demonstrated leadership in conservation and stewardship. The work of this body and its members is truly a standard of exemplary commendation.

This year, Sig Sporleder, a member of the Upper Huerfano Soil Conservation District since 1951, was recognized for the outstanding ranching techniques he has implemented on his 2,367-acre ranch near Walsenberg, Colorado and named Conservationist of the Year for Ranching. He has controlled ranch erosion by installing dams and diversion ditches, and increased plant diversity and rangeland productivity by cross-fencing for rotational grazing systems. Mr. Speaker, Mr. Sporleder is not only a great conservationist but an upstanding member of our community. He is a member of the Colorado Cattlemen's Association, Farm Bureau and the Huerfano Stock-Growers Association. His contribution to cultivation and conservation practices is an encouragement to all of us who seek to preserve the integrity of the land.

IN HONOR OF RAY BRADBURY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. KUCINICH. Mr. Speaker, I rise today to congratulate author Ray Bradbury, as he receives a lifetime achievement award to be presented by the National Book Foundation. A novelist, lecturer, social critic, screenwriter, playwright, poet and visionary, Ray Bradbury is a national treasure.

Born in 1920, the young Bradbury was an imaginative child prone to nightmares and frightening fantasies. He began writing at the age of twelve, and has not looked back. Operas, poetry, essays, plays, more than 500 short stories and 30 books later, Ray Bradbury has left a vast collection of thoughts and ideas which will assuredly withstand the test of time.

A man well grounded in reality, he has an amazingly distinct hold on the creative process that alludes most. He has said, "We are cups, constantly and quietly being filled. The trick is knowing how to tip ourselves over and let the beautiful stuff out." Indeed, Ray Bradbury has found the path to letting the "beautiful stuff out," for nearly 65 years. His works are well known by most, including his more popular *The Martian Chronicles*, *Something Wicked*

This Way Comes, and *Fahrenheit 451*. Ray Bradbury's ideas are intertwined with our shared American culture, as nearly every high school student has at some point read one of his novels for a high school literature class. *Fahrenheit 451*, in which an autocratic society's government denies its people access to books, and thus creative thought and actions, is a classic example of Ray Bradbury's unique incorporation of fantasy, reality, and forewarning vision. It serves not only as a warning against censorship, but was firmly rooted in the American culture of the time, as it was written and published during the reign of Senator Joseph McCarthy.

Truly a modern creative genius, Ray Bradbury has won numerous awards for his writing, and was inducted into the Science Fiction Hall of Fame in 1970. After what has indeed been a lifetime of achievement, Mr. Bradbury is showing no signs of slowing down, as even now, at 80, he continues to write and lecture.

Mr. Speaker, I ask that my colleagues join me in honoring Ray Bradbury, a man whose vision and artistic creativity has challenged our collective memories, ideals and beliefs; and who has served as an inspiration to each of us and our future.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. KENNEDY of Rhode Island. Mr. Speaker, I was unavoidably detained and missed the following votes: Rollcall No. 593, No. 594, No. 595, No. 596.

Had I been here I would have voted: "Yea" on No. 593, No. 594; and "Nay" on No. 595, No. 596.

GOVERNMENT SPENDING

HON. MARSHALL "MARK" SANFORD

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. SANFORD. Mr. Speaker, I rise today to leave in the record a few thoughts about where we are, and where we are going, with regard to government spending. Milton Friedman once said that the only real measure of government's size is what it spends. I had a hunch that he was right when I came to Washington, having been here for six years I am now certain he is correct.

It's not collusion, or a conspiracy, but unfortunately political forces regularly come together to mask the real size of government. Taxes may sit below the real cost of sustaining a program. That's happening now with Social Security where the \$9 trillion liability, if annualized, would mean payroll taxes closer

to 17% than 12%. Money can also be borrowed—we have \$5 trillion in government debt, a great part of this went to consumption rather than investment—and as such basically means that the current generation handed the bill to the next for government services they enjoyed.

Friedman's historical argument is reinforced by the federal government's growth over the last 5 years. When I arrived in Washington in 1995 the federal government spent about \$1.5 trillion per year. It now spends almost \$1.9 trillion per year. Washington looks, feels, and acts like a great spending machine, and I have seen first hand the tremendous bias toward spending inherent in our system of government. Few people take a trip to Washington because they want nothing from it, and you see this in several ways.

First, regular folks from back home come up—they admire what I have done and said on government spending and even say keep it up—but there is always this "one" program they want to tell you about. If you add up all the "one" programs—railroad retirement funding, money to fix the Pinckney historic site in Mount Pleasant, a new line item for firefighters, the local disabilities or humanities board's push for un-offset additional funding, etc, you get to a lot of money. These are your friends, the last thing in the world you want to do is say no.

Second, formal lobbies say basically the same things, but you didn't grow up across the street from the man or woman making their case. They sweeten their argument with a big PAC check or 1,000 letters of support from everyone on their mailing list. They are extremely effective. An example of this would be the sugar lobby. With the exception of maybe ten Congressional districts where sugar is the dominant crop, no one in the Congress could make the case for our sugar price support system without being laughed or booed out of the room. This system costs American consumers \$1 billion a year in the form of higher sugar prices, and all this benefit gets handed down to truly a few—roughly 60 domestic sugar producers. The largest of these is the Fanjul family, who get \$60 million a year of personal benefit as a result of the program. They are not even American citizens, but do reside in Palm Beach and are on the Forbes 400 list with yachts, helicopters, planes—even their own resort. Unjust—yes, but there are 270 million people in America, so that means this program costs each of us about \$4 each per year. Who is going to take a trip to Washington to save \$4 per year? No one—it's not a rational decision. For the Fanjuls it is the reverse, they have \$60 million riding on the visit and are in town in a big way.

Finally, government watches out for its own. The military very effectively uses government dollars to turn around and lobby Congress for more. I don't mind because I see the military as a core function of the federal government, but when our office went after the East West Center, I was disturbed to see public monies

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

used to craft responses used in defeating our efforts. Similarly, when I went after OPIC with TOM CAMPBELL the organization's intelligence was so good that I was getting calls from Mark Irwin and Dennis Baake. Mark I have only met a time or two at Renaissance Weekend. Dennis I have known for years; he uses OPIC funding with his company AES, but we have never before talked about OPIC. I still don't know how OPIC figured out I knew both these guys.

The bottom line is that we have a problem with spending in Washington and what this spending points to is even worse. In the early 1800's a little known Scottish historian after studying World History for the whole of his life said this:

"A democracy cannot exist as a permanent form of government it can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always vote for the candidates promising the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. The average of the world's greatest civilizations has been 200 years. These nations have progressed through this sequence:

from Bondage to Spiritual Faith;
from Spiritual Faith to Great Courage;
from Great Courage to Abundance;
from Abundance to Selfishness;
from Selfishness to Complacency;
from Complacency to Apathy;
from Apathy to Dependency;
from Dependency back again into Bondage."

Tragically Alex Tyler's words have been born out by the history of the world.

Egyptians, advanced as they were, came and went—the Greeks laid the intellectual foundation for many of our government's practices but did the same. Rome, after controlling the entire known world, came to an end in 476 AD. The Byzantine Empire was around for another thousand years but ultimately crumbled as well in 1453. Italy, which dominated as the cultural center of the western world during the Renaissance, fell to Charles V in 1550 and Spain controlled one-fourth of the known world and one-half of the world's gold resources in 1588 but collapsed in the late 1600's. The Dutch had the highest per capita income in the world and controlled half of the world's shipping, but were subject to a similar decline by 1795. The Ottoman Empire was the world's largest in the 1600's then declined through the 1700's and 1800's and ended after WWI.

There are other examples, but a good part of each of these countries' or civilizations' end was tied to government overspending. Spain at the time of collapse spent forty cents of every dollar of government expenditure on interest payments which is unsustainable for a person or a country. Can you imagine spending forty cents of every dollar you earned to cover the tab on your credit card?

The bottom line is that I believe the biggest threat we have to National Security is our government's excessive spending. I have cast more than my share of votes against even suspensions and anything else that had much in the way of spending, but I have seen nothing structural to suggest people are willing to put the brakes on spending. This troubles me for our country's future. Oddly, the next economic slow-down may be our nation's best

hope in efforts to attempt to put a bridle on the federal government's spending, but currently it doesn't look good. For the sake of our Republic, I hope the elected leadership of this country wakes up to the need to do something sooner rather than later because time is beginning to run short in solving what could shortly prove to be a math trap against each of us as taxpaying Americans.

HONORING OLYMPIC ATHLETE
CHRISTINE SMITH COLLINS

HON. JAMES P. MCGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. MCGOVERN. Mr. Speaker, today I wish to join the City of Worcester in recognizing one of our most dedicated athletes, rower Christine Smith Collins. At the Sydney Olympics, Ms. Collins and her partner Sarah Garner captured the Bronze Medal in the lightweight double sculls.

Ms. Collins was an avid track runner before discovering rowing at Trinity College in Hartford, Connecticut, where she received her Bachelor's Degree with honors in 1991. Rowing certainly fit her well, as she has become the most decorated female rower in U.S. history. She has been an eight time national champion, won four world titles, and six world championship medals.

In addition to her success on the water, Ms. Collins is also a practicing attorney, receiving her degree from George Washington Law School in 1998. She was a law clerk to the Justices of the Superior Court of Massachusetts and is currently an associate at the law firm of Bowditch and Dewey, LLP in Worcester, Massachusetts.

Ms. Collins resides in Worcester with her husband Matt Collins, a physician at Family Health Center in Worcester and himself a former member of the U.S. Rowing Team and 1993 World Champion. I greatly admire her many accomplishments, both in and out of the water. Mr. Speaker, I ask that this House join me and the City of Worcester in honoring this tremendous athlete and to wish her much continued success in the future.

IN HONOR OF JANE L. CAMPBELL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. KUCINICH. Mr. Speaker, I wish today to congratulate Jane L. Campbell, the outstanding Commissioner from Cuyahoga County, Ohio who was recently named one of nine Public Officials of the Year by Governing Magazine.

As one of three Cuyahoga Commissioners for the most populous county in Ohio, Campbell manages human services, economics, infrastructure development and re-development and also oversees a budget larger than that of ten states. However, Campbell takes her job as County Commissioner far beyond these traditional duties. Currently, she is President of the Board of County Commissioners, Chairman of the Violence Against Women Act Com-

mittee and Children Who Witness Violence Committee, and a Board Member of the District One Public Works Integrating Committee (DOPWIC). Also, Campbell represents the County at the National Association of Counties and the County Commissioners Association of Ohio, and she was recently elected the Vice Chair of the National Democratic County Officials.

Jane Campbell is a natural leader. At just 47 years old, Campbell is already a seasoned politician, winning her first state legislative seat when she was still in her 20's. She successfully served six terms in the Ohio House of Representatives, where she was elected Majority Whip and Assistant Minority Leader by her colleagues. Over the course of her 12 years in office, Campbell had a strong record for children and families, law enforcement, development and welfare. In addition to being a talented legislator, Campbell was the founding Executive Director of WomenSpace, Executive Director of the Friends of Shaker Square and National Field Director of ERAmerica.

Campbell's hard work has earned her a number of awards and honors including, Crain's Cleveland Business Woman of Influence, One of the 100 Most Influential Women in Cleveland by Cleveland Magazine, A Woman to Watch in the 90's by Ms Magazine, One of 100 Young Women of Promise by Good Housekeeping, and Rookie of the Term by Columbus Monthly.

Mr. Speaker, I ask my fellow colleagues in the House of Representatives to join me today in recognizing Commissioner Jane Campbell. She is a truly remarkable woman who should be commended for her immeasurable contributions to our community and her endless dedication to public service.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. KENNEDY of Rhode Island. Mr. Speaker, I was unavoidably detained and missed the following votes: Roll Call No. 531, No. 532, No. 533, No. 570–576, No. 584–590, No. 592, No. 593, No. 594.

Had I been here I would have voted: Yea on No. 531, No. 532, No. 533, No. 570, No. 571, No. 572, No. 573, No. 574, No. 575, No. 576, No. 584, No. 585, No. 586, No. 587; Nay on No. 588; and Yea on No. 589, No. 590, No. 592, No. 593, No. 594.

ESTATE TAXES

HON. MARSHALL "MARK" SANFORD

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. SANFORD. Mr. Speaker, I rise today to share the thoughts of a man whom I respected deeply, John Monroe J. Holliday. John did many things in South Carolina, one of which was host the Gallivants Ferry Stump. The Stump is a 180-year-old tradition built on kicking around political ideas face-to-face. It has been a spot where people in that part of rural South Carolina gathered and I've always

enjoyed the chance to attend and compare notes and ideas with farmers and city folks alike. I have always considered myself a token Republican at this Democratic event, but it did me well as my elections have been won with the help of Democrats in western Horry County. John passed away last month and he will be missed by many South Carolinians.

One of the issues that John was very passionate about was the estate tax. Many times he wrote to me urging a change to the law. Two days before he died, he drafted a letter to me on the current estate tax policy in our country. I will let his final words on the subject speak for him.

I submit the following letter for the RECORD:

HOLLIDAY ASSOCIATES, LLC,
Galivants Ferry, SC, October 19, 2000.

Congressman MARK SANFORD,
Longworth Building,
Washington, DC.

DEAR MARK: The Holliday family has faced increased estate taxes on an annual basis for such a long time, and this increase is a result of Congress's failure to adjust the gift and estate tax exclusion by inflation. In 1987 the amount each individual could shelter from estate taxes was \$600,000—in addition to the annual gift tax exclusion for each individual which I believe was \$10,000. Margy and I have constantly taken advantage of the estate gift tax exclusion—in fact each year we were able to give to our daughters a total of \$40,000.

From December 1986 to December 1987, the consumer price inflation rose from 109.6 to 113.3 or a little more than 3.6%. If both the gift and estate exclusions had been adjusted for this 3.6% inflation increase, we could have transferred an additional \$50,840 to our children tax free. This is only a part of the additional benefits our family could have been entitled to. Any of the earnings on the \$50,840 would have been excluded from our estate. If we assume a 10% annual growth rate from 1988 to the present, over \$159,000 would have been excluded.

If we use these same assumptions and recalculate each year the impact that these hidden estate tax increases have on our estate, my family should have been entitled to a total exclusion of more than \$8.8 million. The end result is that the estate will pay over \$4,840,000 more in estate taxes!

The reality is that Congress has intentionally allowed the annual increases to take place under their current theory of "the rich are too rich". To avoid the wrath that they would have faced if the tax increases had been legislated, they have avoided accountability by allowing inflation to do their dirty work.

The failure to adjust exemptions like the estate and gift tax exclusions is nothing but a hidden tax increase! I believe as a result of these increases that it is more than appropriate for Congress to redress this injustice by making significant changes in the estate and gift tax exclusions.

I apologize for this long letter but some adjustments must be made to help this horrible situation.

With warm regards, I am
Yours very truly,

JOHN MONROE J. HOLLIDAY.

HONORING THE SHREWSBURY
ROTARY CLUB

HON. JAMES P. MCGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. MCGOVERN. Mr. Speaker, I wish today to congratulate the Shrewsbury Rotary Club of Massachusetts, which is being recognized for exemplary involvement in community service. The Shrewsbury Rotary Club has been chosen as the 2000 recipient of The Harry Cutting, Jr. Award. This award is presented annually by Shrewsbury Community Services to an individual or organization that has worked to improve the lives of local families. Harry Cutting was a founding member of Shrewsbury Community Services and was dedicated to helping families in need.

The Shrewsbury Rotary Club exemplifies the meaning of community service and what Harry Cutting stood for as a member of this community. The club is involved on both the international and the local level, helping those in need. They have worked in conjunction with the University of Massachusetts Medical Center to transport medical supplies to Chernobyl and established the first rotary club in Kiev where they have formed a partnership and continue to assist those citizens in need. On the local level, they support the ecumenical council, assist in the local schools, lend a helping hand to senior citizens, and provide college scholarships to help local students pay for college.

I have a great appreciation for what this group has done to benefit the Shrewsbury community and I am especially proud of their accomplishments. Mr. Speaker, I ask that this House join me and the members of Shrewsbury Community Services in congratulating the Shrewsbury Rotary Club on receiving this prestigious award.

IN HONOR OF DR. CLAIRE A. VAN
UMMERSON'S SERVICES TO
CLEVELAND STATE UNIVERSITY

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. KUCINICH. Mr. Speaker, I rise today to honor of Dr. Claire A. Van Ummerson's outstanding dedication to serving the higher educational needs of the Cleveland area.

Claire A. Van Ummerson, Cleveland State University president since 1993, will leave the school by the end of June to take up a new position on the American Council on Education in Washington, DC. She has a long and prestigious career in the field of higher education. From 1986 through to 1992, Dr. Van Ummerson served as chancellor of the University System of New Hampshire. She has also been associated with the University of Massachusetts in Boston for many years in a variety of roles, including associate vice chancellor for Academic Affairs.

Dr. Van Ummerson's philosophy which is based on partnerships has been instrumental in ensuring progress at Cleveland State University. She advocates working with school systems, other universities, research institutes

and businesses to strengthen academic programs and enhance the school's capacity to respond to the needs of the region. Such a philosophy demonstrates a true understanding of the education system and its interaction with the community as a whole.

Dr. Van Ummerson's contribution to education can be seen in the stature of Cleveland State University in our community. The University, which serves the educational needs of northeast Ohio, offers 65 undergraduate programs and has approximately 15,500 students. Its mission to promote an open and inclusive educational environment for members of the community has been served well under Dr. Van Ummerson's leadership.

My fellow distinguished colleagues, please join me in honoring Dr. Claire Van Ummerson's outstanding work as President of Cleveland State University, and in wishing her all the best for her future career in Washington, DC.

LET THE STATES PLAN
TRANSPORTATION PROJECTS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. SCHAFFER. Mr. Speaker, as most Americans know, Members of Congress are frequently successful in attaching extraneous pieces of reauthorizing legislation to appropriations bills. These attachments are called "riders." These are last-minute attempts to pass legislative language that typically has not been subject to the standard deliberative process in committee and on the floor of the House. The FY 2001 Labor, Health, and Human Services Appropriations bill is no exception.

This appropriations bill contains a rider that could potentially have a negative impact on many of the 21 counties I represent in the 4th District of Colorado. It could adversely affect safety on Colorado Interstate 25, and would go against a fundamental position the Colorado Department of Transportation has consistently held firm. Termed the "Ports-to-Plains Corridor," this route is part of the national plan to facilitate transportation of goods from Mexico to the central West.

The Ports-to-Plains Corridor was given a designation as a high priority corridor in the Transportation Equity Act for the 21st Century Act of 1998. The language designates, "the Ports-to-Plains Corridor from the Mexican Border via I-27 to Denver, Colorado." It is my understanding Members of Congress and Senators from Texas, New Mexico, and Colorado negotiated a plan to attach language into the Fiscal Year 2001 Labor, Health, and Human Services Appropriations bill designating the Ports-to-Plains Corridor route from Laredo, Texas, to Dumas, Texas. It is also my understanding proponents of this route designation have previously attempted but failed to attach this language to the FY 2001 Transportation Appropriation bill and the FY 2001 District of Columbia Appropriation bill. Unfortunately, there are many problems with this truncated designation.

Mr. Speaker, in Colorado's Fourth Congressional District, city officials, county officials, and constituents in Baca, Prowers, Kiowa, Cheyenne, Lincoln, Kit Carson, Elbert,

Arapahoe, Adams, Washington, Yuma, Morgan, Logan, Phillips, and Sedgwick counties have been in close contact with me since 1998 as we planned, along with state and federal offices, where the Port-to-Plains corridor would run through these eastern plains counties of Colorado. The economy on the eastern plains of Colorado, heavily dependent upon farming, ranching, and businesses associated with agriculture, is struggling as the farm economy across the nation currently is. Obviously, the Ports-to-Plains Trade Corridor would aid in the rejuvenation of this struggling agricultural economy as more commerce would be moving through the area, thereby creating opportunity for new business and jobs on the America's high plains.

Mr. Speaker, I am concerned there is a strong possibility the Ports-to-Plains Corridor could bypass eastern Colorado by proceeding northwest from Dumas, Texas, through New Mexico, and onto Interstate 25. Should proponents of the rider be successful in attaching the language to the FY 2001 Labor, Health, and Human Services Appropriation bill, there is a good chance eastern Colorado would not be included in the Ports-to-Plains Trade Corridor. Obviously, I cannot vote for a bill possibly allowing a tremendous economic plan for so many of the constituents I represent to slip away.

There are other problems with this premature designation. The four affected States, Colorado, Texas, New Mexico, and Oklahoma, are participating in a federally funded highway study entitled the Ports-to-Plains Corridor Feasibility Study. The study is being conducted by independent consulting firm Wilbur Smith Associates. The Texas Department of Transportation initially contracted Wilbur Smith Associates to conduct the study which was funded by the Federal Highway Administration (FHWA). The Colorado, Texas, New Mexico, and Oklahoma departments of transportation sit on the Ports-to-Plains Feasibility Study Steering Committee so as to maximize communication and opportunities between the four states.

According to Wilbur Smith Associates, the purpose of the study is to "to determine the feasibility of highway improvements between Denver, Colorado and the Texas/Mexico border, via existing IH 27 corridor between Amarillo and Lubbock, Texas." Wilbur Smith Associates has diligently kept the public informed by public meetings. "Two series of public meetings will be conducted for this project. . . . The second series of public meetings to be held around mid-January 2001 will present findings of the detailed evaluation of alternatives," according to Wilbur Smith Associates. The Transportation Subcommittee on Appropriations crafted the Ports-to-Plains Corridor project around the dates of this feasibility so as to allow the state departments of transportation ample time to make a recommendation to their elected federal officials.

Wilbur Smith Associates informs me the target completion for the draft report is March 2001, while the target completion date of the final report is April or May 2001. Mr. Speaker, why proceed with route designations before the study to determine the best route is completed? I would encourage the Congress to slow down and allow Wilbur Smith Associates to complete this federally funded highway study before the federal government is allowed to supersede local and state authority, and preclude suitable public input.

Mr. Speaker, this is not the only highway study being conducted regarding the Ports-to-Plains Trade Corridor. The Colorado Department of Transportation (CDOT) will soon conduct its own study entitled "The Eastern Colorado Mobility Study." According to CDOT, the "purpose is to identify the feasibility of improving existing and/or building possible future transportation corridors and inter-modal terminals in eastern Colorado that will enhance the mobility of freight services within and through eastern Colorado." While the Eastern Colorado Mobility Study will be a comprehensive study, it will incorporate the Ports-to-Plains Trade Corridor. According to the Project Manager at CDOT, it has selected a consulting team, but the contract has not even been finalized. Mr. Speaker, again, why designate even a portion of a major trade corridor when the studies designed to plan the corridor have not even begun? For the RECORD, I will submit with these remarks a letter from the Executive Director of the Colorado Department of Transportation requesting no specific highway segments in Colorado be designated. The rider designating the specific route through Texas most likely will have an effect upon Colorado, so in order to uphold the wishes of the State of Colorado, I cannot condone a premature specific designation.

There is another matter at stake which potentially supersedes all others, and this is the issue of safety. The Colorado Department of Transportation has consistently and strongly opposed a route designation which would result in heavier traffic on Interstate 25. CDOT opposes more truck traffic on I-25, particularly between the congested I-25 segment of Pueblo and Fort Collins. Mr. Speaker, I hereby submit Colorado Resolution TC-798 for the RECORD, crafted by the Colorado Department of Transportation, detailing CDOT's specific position on this safety issue. Again, there is no way I can vote for the Fiscal Year 2001 Labor, Health, and Human Services Appropriations bill when it contains a provision that would cause a severe safety hazard along the most congested interstate and contradict the Colorado Department of Transportation's adamant position.

Additionally, Mr. Speaker, I understand there is language regarding the Ports-to-Plains Corridor mandating the Federal Highway Administration (FHWA) submit a route recommendation to the House and Senate Committees on Appropriations, the Senate Environment and Public Works Committee, and the House Transportation and Infrastructure Committee should Colorado, Texas, Oklahoma, and New Mexico not reach a unified consensus by September 30, 2001. While I understand obtaining route consensus between the involved states is an arduous task, I believe the September 30, 2001 deadline will be difficult to achieve considering the magnitude of the Ports-to-Plains Trade Corridor. Furthermore, I am concerned the FHWA's decision might not be the most appropriate one, and possibly would go against the relevant state departments of transportation studies and agreements. Highway planning should be determined by local governments and state departments of transportation, not dictated by a few. Mr. Speaker, it would be most prudent for Congress to withdraw this unwarranted rider included in the FY 2001 Labor, Health and Human Services Appropriation bill.

STATE OF COLORADO,
DEPARTMENT OF TRANSPORTATION,
Denver, CO, May 9, 2000.
Hon. ROBERT SCHAFFER,
U.S. House of Representatives, Cannon House
Office Building, Washington, DC.

DEAR CONGRESSMAN SCHAFFER: CDOT is very interested in the Borders and Corridors Program for Colorado and certainly would like to have a designation. However, there are several north-south corridors in eastern Colorado under consideration. It is difficult to determine at this time which corridor would best serve the interests of the people of Colorado as well as appropriate connections with neighboring states. The Transportation Commission needs to make a policy decision on this issue before proceeding with any official designation. CDOT is initiating a Feasibility Study to determine the best corridor for the state and provide a connecting corridor from the Texas Ports to Plains Transportation Corridor to the Heartland Express Corridor. This effort will be underway later this year.

Therefore, we would request that no specific highway segments in Colorado be designated until the Feasibility Study has been completed.

Sincerely,

THOMAS E. NORTON,
Executive Director.

From: Cavaliere, Dianne
Sent: Friday, January 21, 2000
To: Phillips, Joel
Subject: Ports to Plains Resolution

Resolution Number TC-798

Whereas, Ports to Plains was identified in TEA 21 as a "High Priority Corridor" in the "Borders and Corridors" Program; and

Whereas, CDOT supports this program as a long term corridor optimization program for trade and commerce pursuant to NAFTA; and

Whereas, the Ports to Plains program coincides with the Transportation Commission's policy for Management of the Transportation System by ensuring partnership with local governments, as well as other states, in order to facilitate the movement of people, goods, information and services; and

Whereas, CDOT is committed diverting traffic from congested segments of I-25 through infrastructure improvement in eastern Colorado and views the Ports to Plains program as an opportunity to pursue such goals.

Now, therefore, be it resolved that CDOT supports the Ports to Plains Feasibility Study (sponsored by TxDOT) and the pursuit of Federal discretionary funding for Ports to Plains through the "Borders and Corridors" program.

PERSONAL EXPLANATION

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Ms. CARSON. Mr. Speaker, I was unavoidably absent yesterday, Monday, November 13, 2000, and as a result, missed rollcall votes 595 through 596. Had I been present, I would have voted "nay" on rollcall vote 595, "yea" on rollcall vote 596.

THE LIFE OF CONGRESSMAN
SIDNEY YATES

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. DAVIS of Illinois. Mr. Speaker, good morning. Today we gather with one accord to pay respect to the memory of our colleague Sid Yates. Public servant, staunch advocate of freedom of expression, leader, father, and friend, Mr. Yates' life is a true testament of the greatness one can achieve in this country when he has a good heart and character, a focused mind, and a determination to succeed.

Mr. Yates has never been a stranger to the ethic of hard work and leadership. Born in Chicago at the beginning of the 20th Century, Sidney Yates learned at an early age how to grapple with and overcome the trappings of adversity. Equipped with an arsenal of courage, he has conquered the lion's share of lows with true fighting spirit and has emerged victoriously. Losing both parents by the age of five, Mr. Yates was left with the responsibility of raising his younger sister and his little brother. In order to provide for his siblings, Mr. Yates worked as a carpenter for most of his childhood. At a time when most children are afforded the opportunity to hope, dream, play, and learn, Mr. Yates was forced to think in real terms. As a young provider, he was forced to make decisions that had an immediate impact on the lives of his loved-ones. As a champion, Mr. Yates accepted his role without reservations.

His role as leader eventually extended beyond his immediate family as he began a life of community service and public advocacy. He held numerous posts and positions on the local and state level. However, it was an upset victory in 1948 that brought Mr. Yates to Capitol Hill as a Representative of the 9th District of Illinois.

As Congressman, Mr. Yates proved to be a capable and effective leader. Not only was he successful in responding to the needs of his diverse constituency—born the son of Lithuanian Immigrants—Yates understood the importance of pushing the envelope and entertained innovative ideas and progressive policies that widened the scope to explore the unknown.

Mr. Yates' record of public service has left an indelible mark of greatness. His efforts have led to many historic victories. He has been a patron and protector of the Arts—As Langston Hughes would say, life for Sid Yates "ain't been no crystal stair. It's had a lot of cracks and holes in it; but he held on to his dreams for he knew that if dreams die, life becomes like a broken winged bird that cannot fly." Yes, Sid Yates continued to dream and continued to soar until his last days.

Thank You Sid!

PERSONAL EXPLANATION

HON. ALLEN BOYD

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. BOYD. Mr. Speaker, I was unavoidably delayed on rollcall votes 595 and 596. Had I been present, I would have voted "nay" on both 595 and 596.

RECOGNITION OF STAFF SERGEANT GEORGE K. GANNAM FOR BEING AWARDED A PURPLE HEART FOR HIS SERVICE IN WORLD WAR II

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. KINGSTON. Mr. Speaker, today I recognize a great American hero, from my district Savannah, GA, George K. Gannam, for being awarded a purple heart for his service in World War II. We should all stand up and applaud Mr. Gannam for his dedication and service to our country. He was a brave and heroic man and deserves to be recognized as such.

Mr. Gannam was killed in the Japanese attack on Hickam Field on December 7, 1941. He was the first person from Chatham County to die in World War II. An eye witness reports that Mr. Gannam received mortal wounds while assisting other airmen to remove airplanes from a burning hangar during the height of the attack. Medical records indicate that Mr. Gannam died of multiple shrapnel and machine gun bullet wounds. As a result of his heroic actions he was awarded a purple heart.

The American Legion Post #184 in Thunderbolt, GA was named after him. This is a great recognition and will help keep his name alive for years to come.

Mr. Gannam's presence and dedication to our country helped insure the freedom we enjoy today. His unselfish acts made a difference to the families of each person he helped. America's military has always served with pride meeting the challenges necessary to maintain our national security, to protect American interests at home and abroad, and to guarantee our freedoms and way of life, and Americans owe them a great deal.

Please join me again in applauding Mr. Gannam. The dedication of this brave man helped shape our history. Without him our country's history would be different. Our society needs more people like him who unselfishly dedicate and give their lives as they fight for freedom for our country. This man was a very brave person and deserves to be recognized as an American Hero. I am pleased to submit a tribute of his life in the CONGRESSIONAL RECORD.

IN RECOGNITION OF STATE REPRESENTATIVE JIM BUCHY FOR HIS SERVICE TO OHIO

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. GILLMOR. Mr. Speaker, I wish today to recognize an extraordinary member of the Ohio House of Representatives and his outstanding contribution and dedication to the State of Ohio. Representative Jim Buchy currently serves as Assistant Majority Leader, representing the 84th House District.

During Representative Buchy's tenure, he has focused on myriad issues that make him a recognizable name in Ohio politics. Several years ago, Representative Buchy sponsored legislation to reform the tort system in the

State of Ohio. His efforts in this area have dramatically advanced the need for tort reform. Another important focus of Representative Buchy's work has been in the area of agriculture. He represents one of the most productive agricultural districts in the State of Ohio. He has championed legislation that streamlines farmer's responsibilities while balancing the need to protect our environment.

In eighteen years of service, Representative Buchy has received countless awards and recognition from various organizations. He has received numerous honors from the United Conservatives of Ohio, the Golden Feather Award from the Ohio Poultry Association, and the Outstanding Service Award in support of Vocational Education. Additionally, he has been honored by the National Federation of Independent Business as a Guardian of Small Business and has received the Ronald Reagan Excellence in Government Award.

I would also like to recognize his wife, Sharon, and their two children, John and Kathryn, for supporting Representative Buchy's efforts in the Ohio House of Representatives.

Mr. Speaker, Representative Jim Buchy is an asset to the State of Ohio and to his constituents. I ask my colleagues of the 106th Congress to join me in commending him for his eighteen years of service and to wish him the best in all of his future endeavors.

HONORING DR. MARCIA POSNER AND PHYLLIS AND STANLEY SANDERS

HON. CAROLYN MCCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mrs. MCCARTHY of New York. Mr. Speaker, today I commend the outstanding service of Dr. Marcia Posner and Phyllis and Stanley Sanders as they are honored by the Holocaust Memorial and Educational Center of Nassau County.

For the past eight years, the Holocaust Memorial and Educational Center for Nassau County has honored citizens who make selfless contributions of time and effort, not only to the Jewish community, but to the community at large. This year, they chose three wonderfully committed and inspiring individuals.

Dr. Marcia Posner works as a librarian and administrator at the Holocaust Memorial and Educational Center. Through her tireless work ethic she developed a library containing over 3,000 volumes and tapes, amassing a wealth of resources about the Holocaust. As Vice President of Programming, Dr. Posner is responsible for the development and execution of a large number of the programs, making the Center a pillar in the Long Island community.

Phyllis and Stanley Sanders exhibited exceptional leadership bringing success and benefits to countless organizations. Over the years, Phyllis and Stanley, often referred to as the "Dynamic Duo," committed themselves to a variety of causes affecting the Jewish community. Together, they are responsible, among other accomplishments, for education fundraising and air-lifting refugees from Russia to Israel. Their inexhaustible and creative efforts continue to inspire a multitude of organizations toward achieving higher goals.

I applaud the service and commitment of Dr. Marcia Posner and Phyllis and Stanley Sanders. The Long Island community as a whole

benefits from the dedication of these individuals.

PATRICK JOSEPH DEVLIN, JR.
MAKES HIS MARK ON THE WORLD

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. ETHERIDGE. Mr. Speaker, I rise today to congratulate a member of my staff Mr. Patrick Devlin and his wife Helen on the birth of their first child, Master Patrick Joseph Devlin, Jr. Patrick was born on Saturday, November 11, 2000 and weighed 6 pounds and 14 ounces. Faye joins me in wishing Pat and Helen great happiness during this very special time in their lives.

Incidentally, Helen is a member of my colleague from Kentucky Mr. LEWIS' staff and I know he joins me in celebrating this new addition to both of our extended families.

As a father of three, I know the immeasurable pride and rewarding challenge that children bring into your life. Their innocence keeps you young-at-heart. Through their inquiring minds and wide-eyed wonder, they show you the world in a fresh, new way and change your perspective on life. A little miracle, a new baby holds all the potential of what human beings can achieve.

In this vein, I welcome young Patrick into the world and wish Pat and Helen all the best as they raise him.

A TRIBUTE HONORING MR.
ROBERT DOYLE STOCK

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mrs. NAPOLITANO. Mr. Speaker, I rise today to pay tribute to a very special American citizen, Mr. Robert Doyle Stock of Norwalk, California, who passed away on November 5, 2000. Mr. Stock, a devoted family man, who led an exemplary life of service to family and country, deserves our praise and gratitude.

Bob Stock was a man of great character. Born on January 13, 1927 in Mount Pleasant, Pennsylvania, his family moved to California after the passing of his father, when Bob was still a child. Once in California, Mr. Stock attended Downey Junior High and later moved on to South Gate High School.

In 1944, at the age of seventeen, Mr. Stock joined the United States Marine Corps. He served as a rifleman in the Baker Assault Company 1st battalion, 22nd Marines, 6th Division and actively served in the invasion of Okinawa towards the end of hostilities in the Pacific Theater.

On his return stateside, Mr. Stock married Mildred Evelyn Dvorak on June 21, 1947. Bob and Mildred bought their first home in Norwalk in 1949, and raised nine children; Becky, Colleen, Bill, Roberta, Cathy, Susanna, John, Richard and Robert.

Mr. Stock was always proud to belong to the Greatest Generation which fought for the triumph of freedom over tyranny during World War II. A proud Irishman, he enjoyed reading,

politics, remodeling his home, hunting, fishing and camping. Of particular interest to Bob was the Civil War, as evidenced by his collection of books and memorabilia that filled his den.

On Sunday, November 5 of this year, Bob left us while sitting in his den, on his favorite chair, while surrounded by his loving wife, children and grandchildren.

Mr. Speaker, I ask my colleagues to join with me in paying tribute to Robert D. Stock, honorable citizen of the United States, proud American veteran and patriot, devoted husband, father and grandfather. To his devoted wife Millie, my dear friend and neighbor, I extend my sincerest sympathy and pray for God's blessings in abundance upon her and her family.

STATEWIDE HONORS GIVEN TO
LEXINGTON, MISSOURI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. SKELTON. Mr. Speaker, let me take this means to congratulate Mayor Tom Hayes and the residents of Lexington, Missouri, for recently being honored by the Missouri Department of Economic Development.

Each year, the Missouri Department of Economic Development acknowledges community leaders and cities throughout the Show-Me State for their efforts in bolstering local community development. The Department's Missouri Community Betterment program, which is the oldest, continuous state-sponsored community improvement project in the nation, is designed to encourage communities to strengthen development ventures and create more jobs for Missourians.

In 2000, a number of Missouri's towns were honored at the 37th Annual Missouri Community Betterment Conference. One of the municipalities to receive statewide acclaim is my hometown of Lexington, Missouri, which received the 2nd place state award in its city category, the 2nd place state award in its category for Youth Leadership, and the coveted designation of "All Missouri Certified City".

Mr. Speaker, I am proud that the people of Lexington under the leadership of Mayor Tom Hayes have worked to improve economic development and ensure employment for those individuals who reside in Lexington and the surrounding area. I am certain that my colleagues in the House of Representatives will join me in honoring these fine Americans for receiving these well-deserved awards.

CHRISTINA TORRICELLI AND THE
FOOD DEPOT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to pay tribute to an outstanding individual and a friend, Christina Torricelli. I would like to recognize the dedication and hard work rendered by Ms. Torricelli and her staff at the Food Depot in Santa Fe, New Mexico. Their intense and tireless efforts and commitment to

alleviate hunger in New Mexico have resulted in feeding over 30,000 individuals a year in the northern part of my State. Over half of these individuals are under the age of 18.

In 1993, a study conducted by Tufts University estimated that New Mexico was second only to Mississippi in the percent of citizens that go hungry on a regular basis. This study initiated conversations between existing hunger relief organizations about accessing more food donations to address the increasing need for emergency food. As a result, The Food Depot was created. Today, the organization has established community partnerships with over fifty-five non-profit programs with services available, but not limited to homeless shelters, soup kitchens, low income families, the elderly, the physically/mentally challenged, disadvantaged children, those recovering from violence, and the homebound due to illness.

I must pay the Food Depot an overdue compliment on their actions during the devastating Cerro Grande fire, which occurred earlier this year in my district. This fire left hundreds homeless, but because of the labor of the Food Depot, they did not go hungry. The third day of the fire Ms. Torricelli and other staff members were up at 3 a.m., exhausted and trying to unload trucks of food and water donations. She asked a television station to broadcast an appeal for help. Within 15 minutes she had had an additional 20 volunteers.

The Food Depot has ensured that I am fully informed on issues related to ending hunger. Ms. Torricelli is especially fond of my colleague, Representative TONY HALL, who has done so much for the issues of ending poverty and hunger.

Mr. Speaker, Christina Torricelli is dedicated to improving life and ending hunger for New Mexico. I have tremendous respect for her. Although many view Christina's deeds as transcendent of human kindness, to her it is just a way of life.

YATES TRIBUTE

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Ms. MILLENDER-McDONALD. Mr. Speaker, the late great Reverend Dr. Martin Luther King, Jr. once said, "Every man must decide if he will walk in the light of creative altruism or the darkness of destructive selfishness. This is the judgment. Life's most urgent and persistent question is what are you doing for others?" If service is the judgment, then heaven's gates have greeted the late Congressman Sidney R. Yates with open arms. Mr. Yates spent his life tirelessly, shamelessly, and unselfishly advocating for others who would have otherwise gone unheard. Our country would be a much better place if we all did.

Although our nation is a great one, it has not . . . because our laws and our statesmen, have not, always served the interests of certain persons and certain disciplines very well. However, in his more than sixty years of public service, Sidney Yates always did. I applaud him as a protector of the arts, a protector of the environment, a protector of children, and a protector of civil rights. His advocacy in these areas has never wavered.

I do not merely regard Mr. Yates as a great statesman for what he did, but when he did what he did. Sidney Yates has often stood up for people when doing so was not only unpopular, but in many instances, taboo. His advocacy for civil rights predates back to the 1940s, even though the Civil Rights Act was not passed until 1964. As the last of the New Deal Democrats and against the persistence of an emerging Grand Old Party majority in the 1990s, he fought to save, and did save, the National Education Association, the National Endowment for the Arts, and the nuclear submarine program. Furthermore, his leadership efforts have saved innumerable national parks and led to the establishment of the National Memorial Holocaust Museum. These are but a few of his contributions. Perhaps even more intriguing than what he accomplished was how he went about his work.

Although Congressman Yates was a hard worker, he, unlike many of us, was a rather silent and modest one. In his close to fifty years on Capitol Hill, he never held a press conference. He never even had a press secretary. He conducted his affairs and gained the trust and respect of his constituents the old-fashioned way. He earned it one act and one handshake at a time.

Although Sidney goes down as a member of Congress who served for the longest period of time, serving twenty-four full terms, his status when leaving the House in 1998 did not reflect that. His service record was interrupted in 1962 when he ran for a seat in the United States Senate for which he was unsuccessful. Although he won his U.S. House of Representatives seat back in 1964, but for his lack of continuity, he ranked 27th on the House Appropriations Committee when he otherwise would have been chairman. Although frustrated, as any of us would be, his manner of working and dedication to the betterment of life for America's citizens never faltered. A well-deserved honor, in 1993, toward the end of his career, President Clinton bestowed the Presidential Citizens Medal of Honor on Congressman Yates for his efforts on behalf of the arts and humanities.

Mr. Yates' belief has always been "[e]very civilization throughout history, you know, has been judged not by its military conquests but by its civilized achievements." He lived his life with this quote as his guide. Let it guide our lives. As we bid farewell to the great Sidney Yates, may his spirit of service to every American forever live in all of us.

GUAM INSURANCE WEEK

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. UNDERWOOD. Mr. Speaker, the governor of Guam has designated the week of November 12–18, 2000 as "Insurance Week." The focus of this proclamation is the Guam Association of Life Underwriters (GALU), a territorial chapter of the National Association of Insurance and Financial Advisors (NAIFA).

Chartered in 1972, the GALU is currently comprised of licensed general agents and subagents of the life insurance industry on the island of Guam. At the very onset of its inception, GALU worked toward bringing the indus-

try together in order to improve the quality of products and services to the people of Guam. Between 1972 until 1990, GALU leaders David Cassidy, Carl Peterson, Charles Paulino, Frank Cruz and Evelyn Blas set the course which the association was to take. Under their leadership and guidance, GALU survived periods of economic slumps.

In the 1990's, past presidents Ben Toves, Frank B. Salas, Jess M. Dela Cruz, and Robert L. Wade Sr., worked toward providing continuing education for licensed agents. Together with the Guam Insurance Commissioner and the University of Guam, GALU made it possible for LUTC life insurance courses to be offered to agents on Guam. LUTC, the premier provider of sales skills training for the life and health insurance industry, enables local agents to achieve their highest potential through professional skills and leadership development training.

GALU's efforts toward the passage of Guam Public Law 25–134 further ensured the promotion of professionalism within the island's insurance industry. The law which requires 15 classroom hours per year for license renewal ensures that members remain in compliance with the rules and regulations of the insurance industry. In addition, personal enrichment among agents is also fostered by these annual sessions.

"Insurance Week" culminates with an induction ball to be held on November 17. At this point, I would like to take this opportunity to congratulate GALU's 2000–2001 Executive Officers: Fred Magdalera, President; Bobby Shringi, Vice President; Lourdes CN Ada, Secretary; Danilo S. Cruz, Treasurer; and the Board of Directors: Mercy Alegre, Jess Dela Cruz, Thad Jones, James Moylan, Patrick Matanane, John Baza and Roger Surban. I am sure that these officers will more than meet the challenge of operating in a rapidly changing environment. As they take upon the responsibilities of their respective posts, I wish these individuals the best for their ensuing terms. As we celebrate "Insurance Week," I commend the Guam Association of Life Underwriters for the excellent service it has provided the island and people of Guam.

IN RECOGNITION OF STATE SENATOR GRACE DRAKE FOR HER SERVICE TO OHIO

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. GILLMOR. Mr. Speaker, I wish today to recognize an extraordinary member of the Ohio Senate for her outstanding contribution and dedication to the State of Ohio. Senator Grace Drake currently serves as a Senator from Ohio's 22nd Senatorial district, which includes a portion of Cuyahoga County and all of Medina and Wayne counties.

As Chairperson of the Senate Health Committee since 1989, she has received countless awards for her work to ensure access to high quality, affordable health care for all Ohioans. She was also instrumental in the overhaul of Ohio's domestic relations laws, working to ensure that a child's needs are considered the top priority when determining custody.

Senator Drake has received awards and commendations from a wide variety of groups.

She has received the Ohio Bar Association Distinguished Service Award, was inducted into the Ohio Women's Hall of Fame, received the President's Award for Distinguished Service from the Ohio Speech and Hearing Association, and she is a four time winner of the Watchdog of the Treasury award from the Unite Conservatives of Ohio. Additionally, she has received numerous awards for her work in the area of health care. The Ohio Hospital Association, the Ohio Academy of Nursing Homes, and the County Boards of Mental Retardation and Developmental Disabilities each have recognized her for distinguished service. She received an Honorary Doctorate in Public Administration from Cleveland State University and an Honorary Masters Degree in Anesthesiology from Case Western Reserve University.

Mr. Speaker, Senator Drake is a caring and effective legislator for the State of Ohio, and more specifically, for her constituents. I ask my colleagues of the 106th Congress to join me in commending her for her seventeen years of service and to wish her all the best in her future endeavors.

CARSON COMMENDS THE EINHORNS FOR CIVIC VIRTUE

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Ms. CARSON. Mr. Speaker, I am privileged to commend to the nation two distinguished citizens of Indianapolis, Claudette and Dr. Lawrence Einhorn. On Sunday, November 19, 2000, they are to be especially honored at the Indianapolis-Israel Dinner of State in Indiana's 10th Congressional District.

These true friends of the city have lived their lives as models of civic virtue for all to emulate. Claudette taught school and worked as a social worker before undertaking the challenge of motherhood, then operated her own small business. She has actively engaged with the work of Gleaner's Food Bank, the Dayspring Center Family Shelter, Meridian Street Co-Op, Dialogue Today, Arts Indiana, the Indianapolis Public School Education Foundation, and Common Cause and many other charitable and community organizations. She has served well the Jewish Community Center, the Jewish Community Relations Council, the Jewish Federation of Greater Indianapolis, the National Council of Jewish Women and Congressional Beth El Zedeck.

Dr. Einhorn, Distinguished Professor of Medicine at Indiana University and former President of the American Society of Clinical Oncology, is especially renowned as a collaborator in the development of the Einhorn Regimen, instrumental in vast reductions in the mortality rate for advanced testicular cancer. He has been honored with the Claude Jacquillat Award, the University of Utah Cartwright Award, the Dartmouth University Kaner Award, the University of Nebraska Carol Bell Cancer Award and has been named an Honorary Citizen of Paris.

Individually and together, the Einhorns personify the best traditions of service to the larger world. I ask, Mr. Speaker, that you and my other distinguished colleagues join me in commending each of the Einhorns for their lives of

service to Indianapolis, to the Tenth Congressional District, to the nation and to the world.

WORLD WAR II MEMORIAL
GROUND BREAKING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. GILMAN. Mr. Speaker, I rise to comment on an important event which took place last weekend in Washington. This past Saturday, I joined President Bill Clinton, Secretary of Defense William Cohen, former Joint Chiefs of Staff Chairman Colin Powell, former Senator Bob Dole, motion picture actor Tom Hanks, and more than 10,000 World War II veterans and their families for the groundbreaking ceremonies for the new World War II Memorial in the Nation's Capital.

The official groundbreaking ceremony took place at a 7.4 acre site on the Mall, halfway between the Washington Monument and the Lincoln Memorial. The site for the Memorial had been previously dedicated on veterans day in 1995, with construction on the memorial expected to be finished by Memorial Day 2003.

As one of eleven World War II veterans who are current members of the House, I was pleased to be able to participate in this ceremony.

World War II was not only the defining event of our generation, it was the most significant event in the history of the world. This World War II Memorial is long overdue. It is important that it is completed while many of us who participated in the hostilities remain as witnesses.

The ground-breaking ceremony was made possible after the National World War II Memorial Foundation successfully raised an estimated \$130 million needed for construction of the memorial. The funds were raised entirely from private donations from corporations, veterans organizations, school groups, and individuals. This fundraising campaign was led by former Senator Dole and Frederick W. Smith, chief executive officer of the Federal Express Company.

"We have reached a time," stated Senator Dole, "where there are few around to contradict what we World War II veterans say. All the more reason for the war's survivors, widows and orphans to gather here, in Democracy's front yard, to place the Second World War within the larger story of America. After today, it belongs where our dwindling ranks will soon belong—in the history books."

When completed, this World War II Memorial will stand as a permanent tribute to veterans of both the European and Pacific Theaters, as well as the dedication of the United States to the defense of freedom and liberty in the 20th century.

The original idea for the World War II Memorial originated with Representative MARCY KAPTUR who introduced legislation establishing the memorial in 1987 after a constituent pointed out to her that no such memorial had been dedicated up until that point.

In her remarks, Congresswoman KAPTUR (Ohio) stated: "individual acts by ordinary men and women in an extraordinary time bound our country together as it has not been

since—bound the living to the dead in common purpose and in service to freedom, and to life."

This World War II Monument, which demonstrates America's dedication to the defense of liberty and freedom, will stand in the company of the monuments to Washington and Lincoln, its counterparts for the 18th and 19th centuries, respectively. This World War II Monument is also a tribute to the millions of Americans who worked for victory in the war effort on the home front.

Mr. Speaker, I submit the full statements of Senator Dole and Representative KAPTUR at this point in the RECORD:

SENATOR BOB DOLE, WORLD WAR II MEMORIAL
GROUND BREAKING, THE MALL, NOVEMBER 11,
2000

Thank you very much. Mr. President, Tom, and Fred, and our countless supporters and other guests. I am honored to stand here as a representative of the more than 16 million men and women who served in World War II. God bless you all.

It has been said that "to be young is to sit under the shade of trees you did not plant; to be mature is to plant trees under the shade of which you will not sit." Our generation has gone from the shade to the shadows so some ask, why now—55 years after the peace treaty ending World War II was signed aboard the USS Missouri—there is a simple answer: because in another 55 years there won't be anyone around to bear witness to our part in history's greatest conflict.

For some, inevitably, this memorial will be a place to mourn. For millions of others, it will be a place to learn, to reflect, and to draw inspiration for whatever tests confront generations yet unborn. As one of many here today who bears battle scars, I can never forget the losses suffered by the greatest generation. But I prefer to dwell on the victories we gained. For ours was more than a war against hated tyrannies that scarred the twentieth century with their crimes against humanity. It was, in a very real sense, a crusade for everything that makes life worth living.

Over the years I've attended many a reunion, and listened to many a war story—even told a few myself. And we have about reached a time where there are few around to contradict what we say. All the more reason, then, for the war's survivors, and its widows and orphans, to gather here, in democracy's front yard to place the Second World War within the larger story of America. After today it belongs where our dwindling ranks will soon belong—to the history books.

Some ask why this memorial should rise in the majestic company of Washington, Jefferson, Lincoln, and Roosevelt. They remind us that the mall is hallowed ground. And so it is.

But what makes it hallowed? Is it the monuments that sanctify the vista before us—or is it the democratic faith reflected in those monuments? It is a faith older than America, a love of liberty that each generation must define and sometimes defend in its own way.

It was to justify this idea that Washington donned a soldier's uniform and later reluctantly agreed to serve as first President of the Nation he conceived. It was to broadcast this idea that Jefferson wrote the Declaration of Independence, and later as President, doubled the size of the United States so that it might become a true Empire of Liberty. It was to vindicate this idea that Abraham Lincoln came out of Illinois to wage a bloody yet tragically necessary Civil War purging the strain of slavery from freedom's soil. And it was to defend this idea around the

world that Franklin D. Roosevelt led a coalition of conscience against those who would exterminate whole races and put the soul itself in bondage.

Today we revere Washington for breathing life into the American experiment—Jefferson for articulating our democratic creed—Lincoln for the high and holy work of abolition—and Roosevelt for upholding popular government at home and abroad. But it isn't only Presidents who make history, or help realize the promise of democracy. Unfettered by ancient hatreds, America's founders raised a lofty standard—admittedly too high for their own generation to attain—yet a continuing source of inspiration to their descendants, for who America is nothing if not a work in progress.

If the overriding struggle of the 18th century was to establish popular government in an era of divine right; if the moral imperative of the 19th century was to abolish slavery; then in the 20th century it fell to millions of citizen-soldiers—and millions more on the home front, men and women—to preserve democratic freedoms at a time when murderous dictators threatened their very existence. Their service deserves commemoration here, because they wrote an imperishable chapter in the liberation of mankind—even as their Nation accepted the responsibilities that came with global leadership.

So I repeat: What makes this hallowed ground? Not the marble columns and bronze statues that frame the mall. No—what sanctifies this place is the blood of patriots across three centuries. And our own uncompromising insistence that America honor her promises of individual opportunity and universal justice. This is the golden thread that runs throughout the tapestry of our nationhood—the dignity of every life, the possibility of every mind, the divinity of every soul. This is what my generation fought for on distant fields of battle, in the air above and on remote seas. This is the lesson we have to impart. This is the place to impart it. Learn this, and the trees planted by today's old men—let's say mature men and women—will bear precious fruit. And we may yet break ground on the last war memorial.

Thank you all and God bless the United States of America.

REMARKS BY THE HONORABLE MARCY KAPTUR
(OHIO), WORLD WAR II MEMORIAL
GROUND BREAKING CEREMONY, NOVEMBER 11,
2000

We, the children of freedom, on this first Veterans' Day of the new century, gather to offer highest tribute, long overdue, and our everlasting respect and gratitude to Americans of the 20th century whose valor and sacrifice yielded the modern triumph of liberty over tyranny.

This is a long-anticipated day. It was 1987 when this Memorial was first conceived. As many have said, it has taken longer to build the Memorial than it took to fight the war. Today, with the support of our veterans service organizations and a small but determined, bipartisan group in Congress, the Memorial is a reality. I do not have the time to mention all the Members of Congress who deserve to be thanked for their contributions to this cause, but two Members in particular must be recognized. Rep. Sonny Montgomery, now retired, a true champion of veterans in the House, and Senator Strom Thurmond, our unfailing advocate in the Senate.

At the end of World War I, the French poet Guillaume Apollinaire declaring himself "against forgetting" wrote of his fallen comrades: "You asked neither for glory nor for tears. All you did was simply take up arms."

Five years ago, at the close of the 50th anniversary ceremonies for World War II,

Americans consecrated this ground with soil from the resting places of those who served and died on all fronts. We, too, declared ourselves against forgetting. We pledged then that America would honor and remember their selfless devotion on this Mall that commemorates democracy's march.

Apollinaire's words resonated again as E.B. Sledge reflected on the moment the Second World War ended: "... sitting in a stunned silence, we remembered our dead . . . so many dead. . . . Except for a few widely scattered shouts of joy, the survivors of the abyss sat hollow-eyed, trying to comprehend a world without war."

Yes. Individual acts by ordinary men and women in an extraordinary time—one exhausting skirmish, one determined attack, one valiant act of heroism, one dogged determination to give your all, one heroic act after another—by the thousands—by the millions—bound our country together as it has not been since, bound the living to the dead in common purpose and in service to freedom, and to life.

As a Marine wrote about his company, "I cannot say too much for the men . . . I have seen a spirit of brotherhood . . . that goes with one foot here amid the friends we see, and the other foot there amid the friends we see no longer, and one foot is as steady as the other."

Today we break ground. It is only fitting that the event that reshaped the modern world in the 20th century and marked our nation's emergency from the chrysalis of isolationism as the leader of the free world be commemorated on this site.

This Memorial honors those still living who served abroad and on the home front as well as those we have lost: the nearly 300,000 Americans who died in combat, and those among the millions who survived the war but who have since passed away. Among that number I count my inspired constituent Roger Durbin of Berkey, Ohio, who fought bravely with the 101st Armored Division in the Battle of the Bulge and who, because he could not forget, asked me in 1987 why there was no memorial in our nation's Capitol to commemorate the significance of that era. I regret that Roger was not able to see this day. To help us remember him and his contribution to this Memorial, we have with us today a delegation from his American Legion Post and his beloved family, his widow Marian, his son, Peter, and his daughter, Melissa, who is a member of the World War II Memorial Advisory Board.

Only poets can attempt to capture the terror, the fatigue, and the camaraderie among soldiers, sailors, airmen, and marines in combat. This is a memorial to their heroic sacrifice. It is also a memorial for the living to remember how freedom in the 20th century was preserved for ensuing generations.

Poet Keith Douglas, died in foreign combat in 1944 at age 24. In predicting his own death, he wrote about what he called time's wrong-way telescope, and how he thought it might simplify him as people looked back at him over the distance of years. "Through that lens," he demand, "see if I seem/substance or nothing: of the world/deserving mention, or charitable oblivion . . ." And then he ended with the request, "Remember me when I am dead/and simplify me when I'm dead." What a strange and striking charge that is!

And yet here today we pledge that as the World War II Memorial is built, through the simplifying elements of stone, water, and light. There will be no charitable oblivion. America will not forget. The world will not forget. When we as a people can no longer remember the complicated individuals who walked in freedom's march—a husband, a sister, a friend, a brother, an uncle, a father—when those individuals become simplified in

histories and in family stories, still when future generations journey to this holy place, America will not forget.

HONORING JOAQUIN LEGARRETA

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a unique American who has served our nation with distinction and honor, Joaquin Legarreta, the Drug Enforcement Agency Deputy Attache for the United States in Mexico.

Mr. Legarreta has served the United States for 30 years in one of the most dangerous jobs we ask our public servants to do, to stand and fight on the front lines of our drug war, one of the great domestic and international policing challenges of the 20th Century, one already following us into the 21st Century. Thanks to men like Joaquin Legarreta, the United States is safer; but he would be the first to tell you that the task of his agency is not yet finished.

He began his service to our country in 1970 with the Bureau of Narcotics and Dangerous Drugs, the precursor to today's DEA (the DEA was formed in 1973). His star was already on the rise when he won the prestigious Administrator's Award in 1980, the award that recognizes excellence in agents whose work brings runners, and those for whom they work, to justice.

He won the Administrator's Award in 1980 for the Superfly operation. The DEA caught the Superfly, a "mother ship" from Colombia exporting \$65,000 pounds of marijuana. A "mother ship" sits in international water and distributes its cargo to smaller ships for transport into the United States.

After terms of service that took him to major cities across the Southwest, including Houston, Laredo, El Paso, Brownsville and Sacramento, Legarreta joined the Intelligence Center for DEA, stationed, again, a El Paso. At that point, he began an even more dangerous line of work, work at which he is terribly adept. Today, he is charged with oversight of the DEA regional offices all over Mexico, traveling to them and conducting business on our behalf there.

During the course of his service, he has had numerous contracts put out on his life, a certain indicator that an agent is doing his job above and beyond the call of duty. Once, near the border, he was involved in a shootout in which one of his agents was shot; Legarreta picked him up, put him in the car and drove him to the hospital, saving his life.

He recently told a story that should make all of us proud. In Sacramento, his team executed a search warrant on a drug lab. Afterwards, an agent brought him a woman who had asked to talk to whoever was in charge. Thinking she was upset because flowers had been trampled or a dog kicked, he was overwhelmed when she thanked him for her freedom, and that of her neighbors.

With tears in his eyes, he recanted the story of this small woman with a sweater over her shoulders who grabbed his hand and said, "Thank you for freeing us." She told him that the people in the neighborhood had been prisoners in their own homes because of the drug

lab. She wouldn't let go of his hand while they stood together for several minutes.

That, he says, made it all worthwhile. So, while we enjoy our comforts here today, I ask my colleagues to join me in commending this brave and unique patriot on the occasion of his retirement. I also thank his wife, Lupita, and their children, Lorena, Veronica, and Claudia, for sharing their husband and father with our nation.

INTRODUCTION OF A RESOLUTION OF INQUIRY

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. PRICE of North Carolina. Mr. Speaker, I rise to introduce a Resolution of Inquiry to have the President direct the Archivist of the United States, the official of the United States Government responsible for coordinating the functions of the Electoral College, to provide the House of Representatives with full and complete information about the preparations that have been made for the various states to carry out the functions of the Electoral College this year.

It is not widely known that the House of Representatives and Senate have a critical role in counting the states' electoral ballots for President and Vice President of the United States. Many know of the ministerial function of the joint session that counts the ballots cast by the electors who are elected in their states. What is not widely understood is the precedent allowing Congress to decide which of two conflicting electoral certificates from a state is valid. Most important is the constitutional function of the Congress to formally object to the counting of the electoral vote or votes of a state and, by a majority of both the House and Senate, to disallow the counting of a state's electoral votes. The House of Representatives should not take this duty lightly, nor should we approach it unprepared.

I want to call attention to the 1961 precedent when a recount of ballots in Hawaii, which was concluded after the governor of that state had certified the election of the Republican slate of electors, showed that the Democratic electors had actually prevailed. The governor sent a second communication that certified that the Democratic slate of electors had been lawfully appointed. Both slates of electors met on the day prescribed by law, cast their votes, and submitted them to the President of the Senate. When the two Houses met in joint session to count the electoral votes, the votes of the electors were presented to the tellers by the Vice President, and, by unanimous consent, the Vice President directed the tellers to accept and count the lawfully appointed slate. Thus, the precedent holds that the Congress has the ability to judge competing claims of electors' votes and to determine which votes are valid.

The rejection of a state's electoral vote or votes is provided by 3 U.S.C. §15. The relevant part reads as follows:

[A]nd no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been

received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified.

The only occasion I am aware of when 3 U.S.C. §15 was brought into play was January 6, 1969. The vote of North Carolina was stated to be 12 for Richard M. Nixon and Spiro T. Agnew and one for George C. Wallace and Curtis E. LeMay. Representative James G. O'Hara of Michigan and Senator Edmund S. Muskie of Maine protested the counting of the vote of North Carolina for Wallace and LeMay as not "regularly given."

The joint session then divided, and after the House and Senate individually debated the protest for two hours each, as provided by statute, they each voted to dismiss the objection and the vote for Wallace and LeMay was counted.

The circumstances that challenged the Congress in 1961 and 1969 were certainly different from those that may come to the Capitol doorstep early next year. If there is a single certainty about the election for president in 2000, it is that there is nothing certain. I believe it is in the interest of the members-elect of the 107th Congress that the 106th Congress make preparations for whatever may come to pass. I propose the first step in preparation is to pass a formal resolution of inquiry, which I have proposed today, to have the President direct the Archivist of the United States to provide the House of Representatives with full and complete information about the preparations that agency has coordinated to prepare the Electoral College to complete its constitutional function. We will need that information to know if the functions are faithfully and regularly carried out.

I also have requested the Congressional Research Service to provide information on state laws requiring electors to pledge their support for their political party's nominees for President and Vice President of the United States. Although there is precedent in the House and Senate for accepting the vote of a so-called "faithless elector," as cited in the 1969 instance where a North Carolina elector pledged to Nixon voted for Wallace, that was a case that did not involve state law requiring the faithfulness of electors. There is no precedent for counting or excluding the vote of a "faithless elector" when that elector's vote is cast in violation of state law. It is important that we in the House of Representatives have a thorough understanding of state law should such a situation arise in January 2001.

Mr. Speaker, time is of the essence in preparing Congress for counting the electoral votes in January. I urge the expeditious approval of this resolution of inquiry.

ELECTION 2000

HON. CYNTHIA A. MCKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Ms. MCKINNEY. Mr. Speaker, I am extremely disappointed with events in Florida, but it is important that I bring to your urgent

attention, voting difficulties experienced in my District.

In 1996, there was heavy voter turnout in the Fourth Congressional District. The heavy turnout was responsible for sending me back to Congress after an unfriendly redistricting fight. However, at that time, voters were forced to wait for hours in order to cast their vote. Too many of them had to stand outside in the weather because the polling places were cramped and too small to accommodate the large number of voters who showed up to vote. People were standing outside and in some cases the lines extended down the street. We all were very proud to have excited the electorate to vote. However, that experience should have alerted the planners of our elections of the need for adequate facilities for voting; apparently it did not.

Regrettably, the electoral process in the Fourth Congressional District was once again marred by exactly the same logistical difficulties as were experienced in 1996, only this year they were even worse. From election day continuing through today, my office has received phone calls from constituents saying that they experienced excessively long delays in voting, some having to wait as long as five hours, and even worse, many said that they left the polling station without having voted at all. In stark contrast, I am told that the polling stations in the northern precincts of the district, which are majority white, moved quickly (in some cases in as little as 15 minutes) and voters did not experience any where near the difficulties experienced by black voters in the southern part of the District. I am concerned that we might be seeing a new pattern and practice that has black voter suppression as its intent.

Complaints in my district are rampant, and I've heard similar complaints from other parts of my State. I don't want to place blame on any of the innocent election workers whose task it was to service large numbers of voters under severe circumstances. In large measure, they did an admirable job under the circumstances. But the right to vote in this country is sacrosanct and that right should be protected. I am calling on the Department of Justice to investigate what happened in my district because sophisticated black voter suppression is still black voter suppression and that's against the law.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 9, 2000.

Hon. WILLIAM CLINTON,
President, Washington, DC.

DEAR PRESIDENT CLINTON: I am extremely disappointed to have to write this letter to you today. But in light of events in Florida, I think it is important that I bring to your urgent attention, voting difficulties experienced in Georgia's Fourth Congressional District.

In 1996, there was heavy voter turnout in the Fourth Congressional District. I am pleased about that. The heavy turnout was responsible for sending me back to Congress, Max Cleland to the Senate, and you to the White House. However, at that time, voters were forced to wait for hours in order to cast their vote. Too many of them had to stand outside in the weather because the polling place was cramped and too small to accommodate the large number of voters who showed up to cast their vote. People were standing outside and in some cases the lines

extended down the street. We all were very proud to have excited the electorate to vote. However, that experience should have alerted the planners of our elections here of the need for adequate facilities for voting; apparently it did not.

We worked very hard this year to encourage all the voters in the district to participate in the November 7th election and as a consequence, there was once again a strong turnout. Regrettably, the electoral process in the Fourth Congressional District was once again marred by exactly the same logistical difficulties as were experienced in 1996, only this year they were worse. From election day continuing to today, my office and the DeKalb County NAACP have received countless phone calls from constituents complained saying that they experienced excessively long delays in voting, some having to wait as long as four to five hours, and even worse, many said that they had left the polling station without having voted at all. These constituents complained that the polling stations were completely underprepared for the turnout. There were simply too few voting booths, voter lists, and elections personnel at the black precincts in the Fourth Congressional District. In stark contrast, I am told that the polling stations in the northern precincts of the district, which are majority white, moved quickly (in some cases in as little as 15 minutes) and voters did not experience any where near the difficulties experienced by black voters in the southern part of the District.

By way of example, constituents complained that at Stone View precinct, there were at least 1200 people standing in line waiting to vote, but election officials confided that they could process only approximately 100 voters an hour and that at that rate voters would be voting until 8:00 a.m. the following morning. Hundreds of people eventually left the precinct without voting after having waited four to five hours to vote. Additionally, we received complaints that constituents waited as long as four to five hours in line only to be told when they finally arrived at the desk that they were at the wrong precinct and because of the lateness of the hour, they were not going to be able to vote at all.

Tragically, many of the people waiting in line to vote were forced to stand for hours in the rain with infants and young children. One constituent complained that after he had waited for hours to get his ballot form at the front desk, he was not allowed reentry into the building when he left the voting line to check on his small children who were outside. Also, several motor vehicle accidents occurred at polling stations, in large measure I am sure, because of the voting delays leading to traffic congestion at the polls.

In light of the above, I am extremely concerned that a new form of black voter suppression might have been experienced by voters in the Fourth Congressional District, constituting a potential violation of the Voting Rights Act.

Mr. President, I do not want to place blame on any of the innocent election workers whose task it was to service large numbers of voters under severe circumstances. In large measure, they did an admirable job under the circumstances. But the right to vote in this country is sacrosanct and that right should be protected.

I respectfully request your immediate investigation into this matter.

Sincerely,

CYNTHIA MCKINNEY,
Member of Congress.

TRIBUTE TO HOWELL L. HODGSKIN, JR. FOR LONGTIME SERVICE TO CENTRAL NEW YORK AND THE U.S. MILITARY ACADEMY

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. WALSH. Mr. Speaker, at the conclusion of this admissions season, Mr. Howell L. Hodgskin, Jr. will retire after twelve years of service to Upstate New York as our region's admissions field representative for the United States Military Academy at West Point.

Mr. Hodgskin, a graduate of West Point and a one-time commissioned officer in the United States Army, has served as the U.S. Military Academy's liaison officer for seven different Members of Congress—SHERWOOD BOEHLERT, JOHN MCHUGH, MAURICE HINCHEY, Bill Paxon, TOM REYNOLDS, AMORY HOUGHTON, and me—as we annually seek to make nominations to the nation's service academies.

After distinguished service in the Army, Mr. Hodgskin was employed as a program manager and radar engineer for the General Electric Company in Syracuse from 1956 to 1989. Since his retirement from General Electric, Mr. Hodgskin has proved invaluable as Upstate's Congressional liaison to West Point. His contributions have assisted Central New York's finest young people in their efforts to enroll in the United States Military Academy.

As he prepares to step down from this important role, I salute him on behalf of the residents of New York's 25th Congressional District for his service and dedication to West Point and our nation. The best of luck always, Hodge.

TRIBUTE TO COMMANDER VIRGINIA TORSCH, UNITED STATES NAVAL RESERVE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. MORAN of Virginia. Mr. Speaker, I rise today to pay tribute to an exceptional leader in recognition of her remarkable service to her country, both on active duty and in the reserves, and as a staunch advocate of improved health care benefits for members of the uniformed services community. CDR Virginia Torsch's truly distinguished record merits special recognition on the occasion of her departure from The Retired Officers Association (TROA) to a position in the private sector.

CDR Virginia Torsch received her Bachelor of Science degree in Zoology from the University of Maryland in 1978, and completed her Master's of Health Science in International Health at Johns Hopkins School of Public Health and Hygiene, Baltimore, Maryland in 1982.

A year later, in 1983, CDR Torsch became a commissioned officer in the U.S. Navy's Medical Service Corps. She was sent to the Naval Hospital, Pensacola, Florida where she served eleven months as the Assistant Comp-controller. She then transferred to the Armed Forces Medical Intelligence Center, Fort

Detrick, Maryland as a medical intelligence research specialist, writing medical studies on countries in Southeast Asia. Three years later in 1987, CDR Torsch transferred to the Pentagon where she served on the Navy Surgeon General's staff as the Assistant for Fleet Support in the Medical Operations and Planning Division. During this tour, CDR Torsch also completed the Naval War College's seminar program, graduating with distinction in 1989. In November 1990, CDR Torsch affiliated with the Navy Reserves where she is currently attached to the National Naval Medical Command Bethesda 106 unit.

In December, 1990, after leaving active duty, CDR Torsch joined the Strategy 2000 staff at the Paralyzed Veterans of America (PVA). While there, she assisted with the development and publication of "Strategy 2000: The VA Responsibility in Tomorrow's National Health Care System", which analyzed the potential impact of national health care reform on the VA medical care system. CDR Torsch also tracked and analyzed health care reform legislation and initiatives, both at the national and state levels.

In October, 1992, CDR Torsch joined the staff at The Retired Officer's Association as the Assistant Director of Government Relations, Health Affairs, where for the last eight years she has worked tirelessly to advance legislation guaranteeing lifetime health care for uniformed services beneficiaries. Because of her strong health care background, CDR Torsch was made TROA's principal representative to The Military Coalition's Health Care Committee. To illustrate the significance of this assignment, it is helpful to note that The Military Coalition (TMC) is a consortium of 31 nationally prominent military and veterans organizations, representing more than 5.5 million members plus their families and survivors.

Shortly after beginning her liaison with TMC, CDR Torsch was elected to the position of the Co-chairman of the TMC Health care Committee because of her ability to articulate forcefully the urgency of providing lifetime health care to members of the greatest generation and their successors and in recognition of her practical insights on the best legislative strategy to achieve that goal. CDR was a major contributor to the Coalition's Health Alternative Reform Taskforce (CHART) study, which identified several innovative ways to provide lifetime health care to military beneficiaries who were locked out of military treatment facilities when they attained Medicare eligibility. That landmark study became the blueprint for several laws that were enacted in the last five years.

In 1997, Congress enacted a three-year demonstration of a concept called Medicare subvention, through which the Health Care Financing Administration would reimburse the Department of Defense (DOD) for care provided to Medicare-eligible members of the uniformed services community in Military Treatment Facilities (MTFs). That program, now called TRICARE Senior Prime, was included in the Balanced Budget Act of 1997 and is currently in operation at 10 MTFs.

Over the years, CDR Torsch and other members of The Military Coalition have worked very closely with my staff in developing an option to allow Medicare-eligible service beneficiaries to enroll in the Federal Employees Health benefits Program (FEHBP), the same program that is available to virtually

all Federal civilian employees, Congressional staff members and Members of Congress. In 1998, an amendment to the FY 1999 National Defense Authorization Act (NDAA), which I sponsored along with my distinguished colleagues, WILLIAM MAC THORNBERRY and J.C. WATTS, provided authority for DOD to conduct a three-year demonstration to determine the financial and other impacts of allowing Medicare-eligible service beneficiaries to enroll in FEHBP. The test of FEHBP-65, as it is called, is also underway at 10 locations around the country. I am convinced the results of this demonstration will prove conclusively that FEHBP is a cost-effective and viable option that should be made available to all retirees.

The FY 1999 NDAA also provided authority to conduct two other demonstrations for Medicare-eligible retirees which CDR Torsch and the coalition collaborated on with the Armed Services Committees: TRICARE as second-payer to Medicare; and the enrollment in DOD's mail order and retail pharmacy programs.

CDR Torsch's unwavering efforts to provide a meaningful health care benefit to Medicare-eligible members of the uniformed services community culminated this year when Congress established in the FY 2001 National Defense Authorization Act a lifetime entitlement to TRICARE for service retirees, their family members and survivors. Effective on October 1, 2001, the TRICARE-for-Life option will not require participants in this program to pay enrollment fees or deductibles. CDR Torsch and the Military Coalition also advocated successfully to have Congress offer a TRICARE prescription drug benefit in the final FY 2001 NDAA. As evidence of her commitment and effectiveness in advocating on behalf of military retirees, Congress also adopted a key recommendation offered by CDR Torsch in her testimony earlier this year that beneficiaries should not be required to pay enrollment fees or premiums to participate because doing so would deny this benefit to those who need it most.

Taken together, these initiatives comprise the most significant improvements in military health care ever undertaken. Thanks in large measure to the dedication by CDR Torsch, TROA and other advocates of military retirees, Congress has demonstrated its commitment to providing lifetime health care to our nation's military personnel and their families. I commend their involvement in this area and believe these efforts should prove invaluable in reversing declining retention and readiness trends in all services.

Mr. Speaker, CDR Torsch has been a leader in every sense of the word—a leader in TROA, the Military Coalition and the entire retired community. Her health care contributions have made an indelible mark on the lives of millions of retirees that will benefit them for years to come. I urge you to join me in wishing her continued success in her new endeavors and in her continued service to this nation.

CONCERNING ABILENE
PHILHARMONIC ORCHESTRA

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. STENHOLM. Mr. Speaker, I would like to recognize the 50th anniversary of one of

Abilene's oldest performing arts organizations, the Abilene Philharmonic Orchestra on December 2 of this year. This great symphony orchestra enriches the cultural life of a city in a unique way; it creates a place where fine musicians want to live and teach and perform. In the 1950-opening season, concerts were held in the old Abilene High School with audiences of less than 100 people. Currently the Abilene Philharmonic Orchestra performs in the Abilene Civic Center with crowds averaging 2,000. I would not only like to acknowledge this organization for their 50th anniversary, but also the impact they have had on the Abilene community.

HONORING A SPECIAL COLORADO
FAMILY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. SCHAFFER. Mr. Speaker, today I rise to honor a hard working family from Flagler, CO. Florence Fuller works with her daughter and son-in-law, Sally and Mike Santala on their farm in northeast Colorado. They survive Florence's husband, Eddie, who began the family tradition of finding new ways of conserving natural resources on their farm. It is that tradition that has earned the Fuller family the Farming Conservationist Award from the Colorado Association of Soil Conservation Districts at its 56th annual meeting in Grand Junction, Monday, November 13. Each year, the association awards the title of Conservationist of the Year to landowners who exemplify leadership in land stewardship.

The Fullers first came to Kit Carson County in 1948 and immediately took a leadership role in their local community. Eddie Fuller helped organize the Flagler Soil Conservation District in 1951 and acted as the organization's Secretary-Treasurer for 16 years. The Fuller farm now encompasses 860 acres of cropland, 97 acres of hay meadow, and 2,500 acres of rangeland at the base of the Colorado Rocky Mountains. It is because of the Fuller family's innovative work with rotational grazing techniques and other conservation methods that the Colorado Association of Conservation Districts has bestowed upon them such an honor, and it is because of their contributions to their community and the environment that I stand here to recognize them today.

MOTION TO INSTRUCT CONFEREES
ON H.R. 4577, DEPARTMENTS OF
LABOR, HEALTH AND HUMAN
SERVICES, AND EDUCATION, AND
RELATED AGENCIES APPROPRIATIONS
ACT 2001

SPEECH OF

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 31, 2000

Mr. BARTON of Texas. Mr. Speaker, I rise today to oppose this motion. It is fitting this motion was brought on October 31, because this is pure Halloween politics by the minority

party designed to scare Americans a week before the Presidential election. The timing of the motion, and the study upon which this motion is based, are questionable at best. One week before an election, the Minority Staff of the Government Reform Committee releases a report criticizing the condition of Texas nursing homes.

Some have tried to pass this study off as non-partisan. I have a hard time believing such a claim. This study was conducted unbeknownst to the majority staff at the Government Reform Committee. This was not an effort to accurately gauge the conditions of Texas nursing homes. This was purely political. The Gore-Lieberman website posted the study and commentary on it before it was released to Majority Members of the Government Reform Committee. It also breeds suspicion that days before this report was released, the Democratic National Committee began an advertising campaign on the state of nursing homes in Texas.

If this was a non-partisan study then are we supposed to believe that it was a mere coincidence the study was released on the heels of these ads being run. Even if we are to blindly accept such a coincidence, the release of the study to the Gore-Lieberman campaign before it was given to Majority Members of the Government Reform Committee clearly demonstrate that this study was nothing more than partisan political propaganda.

More disheartening than the timed release of this study was the facts ascertained and the conclusions reached by the study are a clear misrepresentation of the conditions of nursing homes in Texas. I agree that we must take steps to improve the care that patients receive in nursing homes. However, as a Texan I take great umbrage at this one-sided hatchet job designed to embarrass my state.

If we look at the objective facts we find a much different picture of Texas nursing homes than painted by the Minority Staff Report. In September 2000, the non-partisan General Accounting Agency (GAO) issued a comprehensive study that directly disputes the claims made in the partisan minority report. The GAO concluded that the percentage of homes in Texas cited for harm and immediate jeopardy deficiencies were half what the partisan Minority study claims.

The Minority Staff study claims that over 50 percent of the nursing homes in Texas had violations that caused actual harm to residents or placed them at risk of death or serious injury. According to the September GAO report, the percentage of homes with actual harm and immediate jeopardy deficiencies from January 1997 to July 2000 were only 25 percent—half what the Minority report stated. We must work to reduce this number, but it also clearly demonstrates how the Minority report attempted to overstate the problem in a partisan effort to embarrass Texas.

The University of California San Francisco Department of Social and Behavioral Sciences conducted a nationwide study of nursing facility deficiencies in which Texas nursing homes rated better than most other states. The study examined the percentage of nursing homes with deficiencies in ten different areas; Comprehensive Assessments, Accident Prevention, Housekeeping, Dignity, Physical Restraints, Food Sanitation, Accidents, Quality of Care, Pressure Sores, and Comprehensive Care Plans. In Calendar Year 1998, the last year of

the study, Texas nursing homes had lower indices of deficiencies than the normal average in eight of these categories.

In the percentage of Quality of Care deficiencies, Texas nursing homes are below the national average, while a state like Connecticut is a staggering 19 percent above the national average, and above the national average in four of ten categories. In the percentage of Food Sanitation deficiencies, Texas is half a percentage point above the national average. However, Tennessee is over eight percent above the national average in Food Sanitation deficiencies. Instead of attempting to misrepresent the Texas record for political gain, the Gore-Lieberman ticket should be focusing their efforts on improving nursing home conditions in their home states.

In Texas we understand there are problems within our nursing home system, and we have taken steps to correct them. In 1995 and 1997, Texas passed legislation that instituted: new requirements for background checks on nursing home operators, new enforcement measures on non-compliant nursing homes, and mandated standards for quality of life and quality of care. A facilities compliance with these standards must be made available to the public and explained to nursing home residents as well as their next of kin.

According to a March 1999 GAO report on nursing homes, Texas spends more than other states on compliant expenditures per home. It also shows that the only state with more compliant visits per 1,000 beds is Washington. Many experts believe that compliant investigators are more important than the standard surveys required not less frequently than every 15 months. This is believed to be this case because complaints can be a good indicator of a current problem in a facility, that a compliant visit comes as a surprise and thus gives surveyors a more accurate picture of what is going on in a facility.

We passed the Boren Amendment in the Balanced Budget Act of 1997 to remove states Medicaid spending from the crippling effects of court mandated reimbursements. The Boren Amendment was enacted to provide more fiscal discipline in the Medicaid program. However, the vague wording of the amendment subjected states to numerous court orders that led to Medicaid spending spiraling out of control. A major proponent of eliminating the Boren Amendment was President Clinton. The President, in an August 1999 speech to the National Governors Association, stated, "We've waived or eliminated scores of laws and regulations on Medicaid, including one we all wanted to get rid of, the so-called Boren Amendment." Eliminating this provision was a bipartisan effort which both parties agreed to.

If the Boren Amendment is not working, and the proof is not there that it isn't, then let's follow the procedures dictated by the Balanced Budget Act of 1997. In this statute a provision was included that asks the Secretary of the Department of Health and Human Services to conduct a study on access to, and quality of, the services provided to beneficiaries subject to the rate setting method used by the states. That report is due 4 years after the enactment of B.B.A. 97 which puts us in August of next year. This report will give accurate information on the effects on repeal of the Boren Amendment, and if there is a need to have it reinstated.

This is Halloween, but don't be fooled. If we need to reexamine the repeal of the Boren

Amendment lets wait until the Secretary is done with the report. This motion is not about patient care. This is about election year politics, and I urge all my colleagues to vote "no."

THE SKELETON IN THE CLOSET

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 14, 2000

Mr. CONYERS. Mr. Speaker, the following is an article which appeared in the November 2, 2000 edition of *The New York Review of Books*, which considers the differences among African-Americans and historians as to how slavery should be most accurately remembered.

Its author, George M. Fredrickson has observed that there is indecision among African-Americans as to how slavery should be remembered, which is brought about because some believe that the best course of action is not to act at all, in other words to forget it. They wish to simply neglect any detailed recollection of slavery because the pain of its memory is too difficult to bear. But others are convinced that everything about this peculiar institution should be brought to light. To them it seems the better course of action to emulate the strategy of the one ethnic group in the twentieth century, that was severely persecuted, but who remained determined not only to discuss their persecution, but to document and publicly display it by way of museums and oral histories and confirm for all time the incredible atrocities to which they were subjected.

Over the last six years, there has been an amazing outpouring of literature and research concerning the enslavement of African people in the United States and it appears that there is still more to come. In the article that follows, it is made clear that the perspective of the historian often affected his work and made the relationship between the slaves and the slavemaster a matter of his, the historian's, subjective interpretation. It also showed how many of the attitudes that buttressed the institution of slavery lived beyond the reconstruction era and persisted not only into the post reconstruction era but into modern times. Because of the growing number of legislators who are becoming attracted to this subject and the unresolved questions that swirl around it, this essay and other materials that it references continue to illuminate this terrible part of American history. Of growing concern is the challenge that this new information may help us in a constructive way to move forward as a nation that honors diversity rather than leading to finger pointing and accusations that will divide us further. There is a growing hope that the spotlight of truth can lead to constructive solutions and a new appreciation of the significance of a diversity which is uniquely American.

THE SKELETON IN THE CLOSET

(By George M. Fredrickson)

1.

One hundred and thirty-five years after its abolition, slavery is still the skeleton in the American closet. Among the African-American descendants of its victims there is a difference of opinion about whether the memory of it should be suppressed as unpleasant

and dispiriting or commemorated in the ways that Jews remember the Holocaust. There is no national museum of slavery and any attempt to establish one would be controversial. In 1995 black employees of the Library of Congress successfully objected to an exhibition of photographs and texts describing the slave experience, because they found it demoralizing. But other African-Americans have called for a public acknowledgment of slavery as a national crime against blacks, comparable to the Holocaust as a crime against Jews, and some have asked that reparations be paid to them on the grounds that they still suffer from its legacy. Most whites, especially those whose ancestors arrived in the United States after the emancipation of the slaves and settled outside the South, do not see why they should accept any responsibility for what history has done to African-Americans. Recently, however, the National Park Service has begun a systematic review of exhibits at Civil War battlefields to make visitors aware of how central slavery and race were to the conflict.

Professional historians have not shared the public's ambivalence about remembering slavery. Since the publication of Kenneth Stampp's *The Peculiar Institution* in 1956 and Stanley Elkins's *Slavery* in 1959, the liveliest and most creative work in American historical studies has been devoted to slavery and the closely related field of black-white relations before the twentieth century. In the 1970s, there was a veritable explosion of large and important books about slavery in the Old South. But no consensus emerged about the essential character of anti-bellum slavery. What was common to all this work was a reaction against Stanley Elkins's view that slavery devastated its victims psychologically, to such an extent that it left them powerless to resist their masters' authority or even to think and behave independently. If slaves were now endowed with "agency" and a measure of dignity, the historians of the Seventies differed on the sources and extent of the cultural "breathing space" that slaves were now accorded. For Herbert Gutman, it was the presence among slaves of closely knit nuclear and extended families; for John Blassingame, it was the distinctive communal culture that emanated from the slave quarters; for Eugene Genovese, it was the ability to maneuver within an ethos of plantation paternalism that imposed obligations on both masters and slaves.

Clearly there was a difference of opinion between Blassingame and Gutman, on one hand, and Genovese on the other, about how much autonomy the slaves possessed. Genovese conceded a "cultural hegemony" to the slaveholders that the others refused to acknowledge. But even Genovese celebrated "the world that the slaves made" within the interstices of the paternalistic world that the slaveholders had made. At the very least, slaves had their own conceptions of the duties owed to them by their masters, which were often in conflict with what the masters were in fact willing to concede. Although all the interpretations found that conflict was integral to the master-slave relationship, the emphasis on the cultural creativity and survival skills of the slaves tended to draw attention away from the most brutal and violent aspects of the regime—such as the frequent and often sadistic use of the lash and the forced dissolution by sale of many thousands of the two-parent families discovered by Gutman.

There was also a tendency to deemphasize physical, as opposed to cultural, resistance by slaves. Relatively little was said about rebellion or the planning of rebellion, running away, or sabotaging the operation of the plantation. From the literature of the 1970s

and 1980s, one might be tempted to draw the conclusion that slaves accommodated themselves fairly well to their circumstances and, if not actually contented, found ways to avoid being miserable. Out of fashion was the view of Kenneth Stampp and other neo-abolitionist historians of the post-World War II period that the heart of the story was white brutality and black discontent, with the latter expressing itself in as much physical resistance as was possible given the realities of white power. Interpretations of slavery since the 1970s have tended to follow Genovese's paternalism model when characterizing the masters or analyzing the master-slave relationship and the Blassingame-Gutman emphasis on communal cultural autonomy when probing the consciousness of the slaves. Tension between the cultural-hegemony and cultural-autonomy models has been the basis of most disagreements.

Beginning around 1990, however, a little-noticed countertrend to both culturalist approaches began to emerge. The work of Michael Tadman on the slave trade, Norrece T. Jones on slave control, and Wilma King on slave children brought back to the center of attention the most brutal and horrifying aspects of life under the slaveholders' regime. Tadman presented extensive documentation to show that the buying and selling of slaves was so central to the system that it reduces any concept of slaveholder paternalism to the realm of propaganda and self-delusion. "Slaveholder priorities and attitudes suggest, instead, a system based more crudely on arbitrary power, distrust, and fear," he wrote.

What kind of paternalist, one might ask, would routinely sell those for whom he had assumed patriarchal responsibility? Building on Gutman's discovery of strong family ties, Jones maintained that the threat of family breakup was the principal means that slaveholders used to keep slaves sufficiently obedient and under control to carry out the work of the plantation. There was no paternalistic bargain, according to Jones, only the callous exercise of the powers of ownership, applied often enough to make the threat to it credible and intimidating. Like Jones, Wilma King likens the master-slave relationship to a state of war, in which both parties to the conflict use all the resources they possess and any means, fair or foul, to defeat the enemy. She compared slave children to the victims of war, denied a true childhood by heavy labor requirements, abusive treatment, and the strong possibility that they would be permanently separated from one or both parents at a relatively early age. She presented evidence to show that slave children were small for their ages, suffered from ill health, and had high death rates. The neo-abolitionist view of slavery as a chamber of horrors seemed to be re-emerging, and the horror was all the greater because of the acknowledgment forced by the scholarship of the Seventies that slaves had strong family ties. What was now being emphasized was the lack of respect that many, possibly most, slaveholders had for those ties.

A recent book that eschews theorizing about the essential nature of slavery but can be read as providing support for the revisionists who would bring the darker side of slavery into sharper relief is *Runaway Slaves: Rebels on the Plantation* by John Hope Franklin and Loren Schweninger. This relentlessly empirical study avoids taking issue with other historians except to the extent that it puts quotation marks around "paternalist." It has little or nothing to say about slave culture and community. Its principal sources are not the many published narratives of escaped slaves, such as the ones now made available by the Library of America, but

rather newspaper accounts, legal records, and the advertisements that describe runaways and offer a reward for their return.

The latter sources are especially useful because they contain candid descriptions of lacerated backs, branded faces, and other physical evidence of cruel treatment. Few runaways actually made it to freedom in the North. Most remained in relatively close proximity to their masters' plantations and were eventually recaptured. It was generally young men who absconded, but they did so in huge numbers. Few plantations of any size failed to experience significant absenteeism. Franklin and Schweninger are unable to determine "the exact number of runaways," but conclude very conservatively that there had to have been more than 50,000 a year. Slaves run off for a variety of motives—to avoid being sold or because they wanted to be sold away from a harsh master, to avoid family dissolution or to find kin from whom they had already been separated, to avoid severe whipping or as a response to it. The picture that emerges from the many vivid accounts of individual acts of desertion is of an inhumane system that bears no resemblance to the mythical South of benevolent masters and contented slaves. It is even hard to reconcile with the more sophisticated view that most slaveholders conformed to a paternalistic ethic that earned a conditional acquiescence from many of their slaves.

The masters found in this book are cruel and insensitive and the slaves openly rebellious. Although it rarely brought freedom, the mode of resistance described in *Runaway Slaves* could have positive results for the deserters. In some cases, they successfully made their return contingent on better conditions, or at least avoidance of punishment. In other words, running away could be a kind of labor action, the closest approximation to a strike that was possible under the circumstances. Very well written, filled with engrossing narrative, and exploiting valuable sources that the historians of slave culture and consciousness have tended to neglect, *Runaway Slaves* is a major work of history.

2.

But of course most slaves did not run away and some plantations did not have serious problems of desertion. Franklin and Schweninger might therefore be exposing only one side of a complex reality. The deep discontent of the deserters is obvious, but was their attitude typical or exceptional? To answer this question, it would be helpful to have direct testimony from slaves who stayed as well as those who fled. There are two principal sources of slave testimony—the published narratives from the nineteenth century, some of which have been collected by William L. Andrews and Henry Louis Gates for the Library of America, and the interviews with elderly ex-slaves conducted in the 1930s by WPA writers. Selections from the interview are now available in a book-audio set, published in conjunction with the Library of Congress and the Smithsonian Institution. Reading these books and listening to the tapes conveys, if nothing else, a sense of how diversely slaves could be treated and how variously they could respond to their circumstances. The narratives written by fugitives stress, as might be expected, the abuse and oppression from which their authors have fled. But the WPA interview include some that convey nostalgia for kindly or honorable masters and suggest that paternalism could, in some instances, be an ethical code as well as a rationalization for servitude.

One could conclude therefore that some masters were genuine paternalists who made their slaves grateful that their owners were

among the decent ones (unlike, for example, the owner of a neighboring plantation who had a reputation for cruelty), while others were ruthless exploiters who treated their human property simply as tools of their own greed and ambition. Both bodies of sources have built-in biases that detract from their authority, as Franklin and Schweninger suggest in explaining why they made little use of them: "Suffice it to say that many of the persons who inhabit the pages of recent studies are either far removed in time and space from the South they describe, or, due to conventions, or the purpose of a diary, are less than candid in their observations."

An earlier generation of historians considered the kind of narratives collected by Andrews and Gates unreliable because they had allegedly been ghostwritten and embellished by white abolitionists for purposes of anti-slavery propaganda. Recent research, however, had established the authenticity of most of them. Original claims for their authorship and the existence of many of the people and events they describe have been verified. But how representative of the slave population in general were the life experiences and attitudes of these literary fugitives? They had to be literate to write their stories, and 95 percent of the slaves were unable to read and write. Four of the six accounts of escapes from the South to the North presented in *Slave Narratives*—those of Frederick Douglass, William Wells Brown, Henry Bibb, and William and Ellen Craft—feature fugitives who had white fathers. Two of them—Henry Bibb and Ellen Craft—were so light-skinned that they were able to pass for white.

Mulattos may have been a substantial minority of the slave population of the Old South, but literate, light-skinned mulattos were rare. It is nevertheless telling evidence of the callousness of Southern slaveholders that most of the children they sired with slave women were unacknowledged and kept in servitude, rather than being emancipated by their fathers, as was more likely to be the case in other slave societies. To attain freedom, the fugitives of mixed race had to use their degree of whiteness or access to education (which allowed them to forge documents) as devices for deceiving their pursuers. Upon arrival in the North, their value to the abolitionists came partly from the pathos that could be generated among color-conscious Northerners by the thought that someone who looked white or almost white could be a slave, especially if she were a beautiful young woman at the mercy of a lustful master. But the sexual exploitation of slave women of any pigmentation was a harsh reality, as the narrative of Harriet Jacobs, who sent to extraordinary lengths to avoid the embraces of her owner, clearly illustrates.

The testimony collected by WPA interviewers in the 1930s suffers from very different and perhaps more severe limitations. Most of it, including much of what is included in *Remembering Slavery*, the recent selection edited by Ira Berlin, Marc Favreau, and Steven F. Miller, comes from those born in slavery but emancipated as children. Very few of them experienced slavery as adults and those who did were into their nineties by the time they were interviewed. Seventy- or eighty-year-old memories are notoriously fallible and can be distorted as a result of what may have happened more recently. Some of those who had lived through the era of lynching and Jim Crow segregation might view their experience as children who had not yet experienced the worst of slavery with a certain amount of nostalgia.

In most cases, moreover, the interviewers were Southern whites, and blacks at the height of the segregation era in the South

would have been reluctant to express their true feelings about how their inquisitors' forebears had treated them. One would therefore expect the oral testimony to make servitude seem more benign than it actually was. But despite these inherent biases, there is in fact much evidence in *Remembering Slavery* to support the view that slavery was legalized brutality. Whipping, it is clear, was virtually omnipresent. Helplessly watching a parent being severely flogged was etched in the memory of many of the interviewees, and a surprisingly large number had been whipped themselves by masters or overseers, despite their tender ages. Sam Kilgore was exceptional in having a master who never whipped his slaves, but "Marster had a method of keepin' de cullud fo'ks in line. If one of dem do somethin' not right to dem he say: 'Don't go to wo'k tomorrow Ise 'spec de nigger driver am a-comin' pass an' Ise gwine to sell youse.'"

Whether discipline was obtained by constant use of the lash, by the threat of sale for any misbehavior, or both, the system revealed here is one that relied on fear and coercion rather than on any sense of a patriarch's responsibility to his dependents. There is also evidence in *Remembering Slavery* of what today would be considered the most flagrant kind of child abuse. Her mistress beat Henrietta King, an eight- or nine-year-old accused of stealing a piece of candy, while her head was secured under the leg of a rocking chair. "I guess dey must of whupped me near an hour wid dat rocker leg a-pressin' down on my haid," she recalled. As a result of the pressure, her face and mouth were permanently and severely disfigured.

In the light of such evidence, it is not readily apparent why Ira Berlin's introduction affirms that a paternalistic ethic prevailed among slaveholders. What it really true in most cases that "the incorporation of slaves into what planters called their 'family, black and white,' enhanced the slaveholders' sense of responsibility for their slaves and encouraged the owners to improve the material conditions of plantation life"? Material conditions did improve during the nineteenth century, but an alternative explanation is available: slaves were valuable property that was appreciating in value. In the light of their financial interest in healthy, marketable slaves, the real questions might be why conditions on the plantations were often so harsh. A slave scarred by whipping depreciated in value, but whippings persisted; slave children were an appreciating asset; but, if Wilma King is correct, they were generally unhealthy and undernourished. (An image from more than one account in *Remembering Slavery* is that of slave children being fed at a trough like pigs.)

Paternalism in one sense of the word may be a byproduct of vast difference in power. Those who present no conceivable threat to one's security, status, or wealth may be treated with condescending and playful affection. It is clear from some of the recollections in *Remembering Slavery* that attractive slave children could become human pets of their masters and mistresses. Mature slaves who "played Sambo" could also arouse feelings of indulgence and receive special treatment. But the possession of great power over other human beings can also provoke irrational cruelty. The other side of the coin of paternalism in this psychological sense is sadism.

Berlin is on stronger ground when he notes that "the paternalist ideology provided slaveholders with a powerful justification for their systematic appropriation of the slaves' labor." But the racism that made it possible to consider blacks as subhuman was another possible justification. The two could be synthesized in the notion that blacks were perpetual children and had to be treated as such

no matter what their actual ages. But if this was the dominant view it did not prevent a substantial amount of child abuse.

3.

Slave children are the subjects of Marie Jenkins Schwartz's *Born in Bondage*. It covers much of the same ground as Wilma King's *Stolen Childhood*, but in its effort to understand the master-slave relationship it leans toward the paternalism model more than toward the "state-of-war" analogy invoked by King and Norrece Jones. Consequently it presents a somewhat less horrific impression of what it meant to grow up on a slave plantation. It acknowledges the possibility of sale for adolescent slaves, noting that approximately 10 percent of them were sold from the upper to lower South between 1820 and 1860. But in claiming that "the risk of separation from families through sale was relatively low for very young children," it disregards the frequent sale of men without their wives and young children or of women with infants without their husbands that is acknowledged elsewhere in the book. Schwartz's conclusion that "slaves throughout the South worried about being sold" seems like an understatement in the light of what Norrece Jones has revealed about how masters manipulated intense fears of family separation to maintain discipline.

The conception of paternalism found in *Born in Bondage* is set forth in terms very close to those employed by Eugene Genovese. "The paternalistic bargain that slaveholders and slaves struck," Schwartz writes, "required each to give something to the other. Slaves displayed loyalty to their owners, at least outwardly, and slaveholders rewarded this with better treatment." She concedes that "the paternalistic attitude of owners was not the same thing as real benevolence" and that the slaves, aware of its self-serving nature, obeyed masters and mistresses "without internalizing the owner's understanding of class and race." But playing the prescribed deferential roles made life easier and must have become second nature for some. Children were quick to see the benefit of pleasing their owners, and the sheer presence of large numbers of children on most plantations was one factor encouraging a paternalistic ethos.

Putting aside the unresolved question of whether sincere and durable "paternalistic bargains" were normal or exceptional in slave governance, Schwartz makes the original and useful point that there was an inherent conflict between such paternalism (to whatever extent it may have existed) and the efforts of slaves to maintain a family life of their own. To the degree that masters took direct responsibility for slave children they undermined the authority of the parents and the unity of the slave family. But how likely in fact were slave owners to play such a role in the raising of slave children? Little evidence of this kind of attentiveness appears in the written and oral narratives. Accounts of slave children running about naked or in rags, being fed at troughs, or put to work at a very early age run counter to the impression of slaveholders acting in loco parentis. Although it offers some significant new insights, *Born in Bondage* should not displace Wilma King's *Stolen Childhood* and be taken as the definitive last word on growing up under slavery. Rather the two books should be read together as revealing different aspects of a complex reality.

Perhaps the time has come to get beyond the debate between the two schools of thought about the nature of antebellum slavery—the seemingly unresolvable disagreement over whether it can best be understood as resting on a "paternalistic bargain" be-

tween masters and slaves or simply on the application of force and fear in the service of economic gain. The reality reflected in the slave narratives and other primary sources is of great variation in plantation regimes. What proportion might be classified as paternalist and what proportion was based simply on "arbitrary power, distrust, and fear" cannot be quantified; it is a question that can be answered only on the basis of general impressions that will differ, depending on which sources are deemed representative and which anomalous. The side that a historian supports might be determined more by ideology or theoretical approach than by a careful weighing of the evidence.

It also seems possible that many slaveholders could fancy themselves as paternalists and act in ways that were totally at odds with their self-image. Walter Johnson's book on the slave market, *Soul by Soul*, in effect transcends the dichotomy by showing that a culture of paternalism and a commitment to commercialism were not incompatible. He also undermines another persistent and contentious either/or of Southern historiography, one that also involves the status of paternalism as ideology and social ethos. This is the question of whether "race" (inequality based on pigmentation) or "class" (stratification based on pre-modern conceptions of honor and gentility) was central to the culture and social order of the Old South.

Johnson takes us inside the New Orleans slave market, the largest and busiest in the South, and discovers that the buyers and sellers of slaves could easily mix the language and values associated with paternalism and commercialism. Unlike later historians, they saw no conflict between their needs for status and sound business practice. "I consider Negroes too high at this time," one slave owner told another, "but there are some very much allied to mine both by blood and inter-marriage that I may be induced from feeling to buy, and I have one vacant improved plantation, and could work more hands with advantage." Clearly the purchasers of slaves liked to think that they were doing a favor to those they acquired. They could buy themselves "a paternalist fantasy in the slave market" when they made a purchase that seemed to accord with the wishes of the person being bought, despite the fact that it could also be justified on strictly economic grounds. But, Johnson comments, "the proslavery construction of slave-market 'paternalism' was highly unstable: it threatened to collapse at any moment beneath the weight of its own absurdity. One could go to the market and buy slaves to rescue them from the market, but it was patently obvious . . . that the market in people was what had in the first place caused the problems that slave-buying paternalists claimed to resolve."

Paternalism, Johnson concludes, was "a way of imagining, describing, and justifying slavery rather than a direct reflection of underlying social relations." It was therefore "portable" and could "turn up in the most unlikely places—in slaveholders' letters describing their own benign intentions as they went to the slave market." Paternalism was an illusion but one that was essential to the self-respect of many slaveholders, just as hardheaded commercial behavior was essential to their economic prosperity and social pretensions. As portrayed by Johnson, the slaves were not taken in by paternalistic rhetoric. But they could influence their own destiny in the slave market by the way they presented themselves: "The history of the antebellum South is the history of two million slave sales. But alongside the chronicle of oppressions must be set down a history of negotiations and subversions." Slaves

brought to market could subvert their sale to undesirable purchasers by feigning illness or acting unruly and uncooperative, or, putting on a different mask, encourage their purchase by masters who had a reputation for good treatment or who already possessed some of their kinfolk. This form of black "agency" might be considered less decisive or heroic than the running away described by Franklin and Schweninger, but "these differences between possible sales had the salience of survival itself."

On the question of whether slavery and the Old South should be characterized by race or by class domination, Johnson suggests that both were present and that it is impossible to distinguish between them in their day-to-day manifestations. He advances the original and potentially controversial argument that to be truly "white" in the Old South one had to own slaves. Buying a first slave therefore brought racial status as well as a new class position. I would qualify the argument by limiting its application to "black belt" or plantation areas where a substantial majority of whites actually owned slaves. In the Southern backcountry and uplands, where nonslaveholding yeomen farmers predominated, the social "whiteness" of anyone who was not black or Indian was beyond question, and it was even possible to regard slaveholding itself as compromising whiteness by creating too much intimacy between the races.

Johnson also contends that differences in pigmentation were a major element in the expectations that purchasers had about the use they could make of the slaves they bought. Dark-skinned slaves were considered healthier and better suited to field labor. Male slaves who were light-skinned but not too light were thought to be good candidates for training in skilled trades. Very light-skinned males were difficult to sell, however, because of the fear that they could escape by passing for white (as Henry Bibb's narrative well exemplifies). Very light-complexioned females, on the other hand, brought high prices as "fancy women" or concubines. This was a color and class hierarchy more often associated with Latin America and the Caribbean than with America's characteristic two-category, white-over-black pattern of race relations. But Johnson argues that the physical aspect of the classification of slaves into different occupational groups was highly subjective and that observers described the pigmentation of slaves differently depending on what use they intended to make of them.

To some extent this was undoubtedly true. But it defies common sense to claim without qualification that "the racialized meaning of [a slave's body], the color assigned to it and the weight given to its various physical features in describing it, depended up the examiner rather than the examined." It is a useful postmodern insight that race and color are, to a considerable extent, "social constructions." But surely the differences between very light and very dark skin was a physical fact that had an independent effect on the evaluations being made. Except for this one instance, however, Johnson's discussion of the social and cultural construction of reality by whites and blacks in the slave market does not do violence to the inescapable external realities that limited the options and influenced the behavior of the buyers, the sellers, and the sold. By beginning the process of undermining and transcending the sharp dichotomies between paternalism and commercialism, and between race and class—on which historians of the Old South have been fixated for so long—Johnson has advanced the study of African-American slavery to a higher level.

Daily Digest

HIGHLIGHTS

Senate passed Continuing Resolution.

Senate agreed to Conditional Adjournment Resolution.

The House and Senate passed H.R. 5633, District of Columbia Appropriations.

Senate

Chamber Action

Routine Proceedings, pages S11511–S11545

Measures Introduced: Three bills and one resolution were introduced, as follows: S. 3269–3271, and S. Res. 384. **Page S11537**

Measures Passed:

Senator Byrd Video Taping Authority: Senate agreed to S. Res. 384, relative to Rule XXXIII. **Pages S11511–12**

Continuing Resolution: Senate passed H.J. Res. 125, making further continuing appropriations for the fiscal year 2001, clearing the measure for the President. **Page S11515**

Conditional Adjournment: Senate agreed to H. Con. Res. 442, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate. **Page S11515**

Counterterrorism Act: Committee on the Judiciary was discharged from further consideration of S. 3205, to enhance the capability of the United States to deter, prevent, thwart, and respond to international acts of terrorism against United States nationals and interests, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Pages S11538–44**

Warner (for Kyl/Feinstein) Amendment No. 4358, to make certain modifications. **Pages S11538–41**

District of Columbia Appropriations—Agreement: A unanimous-consent agreement was reached providing that when the Senate receives from the House of Representatives H.R. 5633, District of Columbia Appropriations, that if the text is identical

to the text that was sent to the desk, then the bill be considered agreed to, and the motion to reconsider be laid upon the table. **Page S11544**

Nominations Received: Senate received the following nominations:

Larry Carp, of Missouri, to be an Alternate Representative of the United States of America to the Fifty-fifth Session of the General Assembly of the United Nations.

Richard N. Gardner, of New York, to be an Alternate Representative of the United States of America to the Fifty-fifth Session of the General Assembly of the United Nations.

Jay T. Snyder, of New York, to be a Representative of the United States of America to the Fifty-fifth Session of the General Assembly of the United Nations. **Page S11545**

Messages From the House: **Pages S11533–34**

Communications: **Pages S11534–37**

Statements on Introduced Bills **Pages S11537–38**

Additional Cosponsors: **Page S11538**

Amendments Submitted: **Page S11538**

Additional Statements: **Pages S11530–33**

Enrolled Bills Presented: **Page S11534**

Recess: Senate convened at 12:02 p.m. and, pursuant to the provisions of H. Con. Res. 442, recessed at 4:31 p.m., until 12 noon, on Tuesday, December 5, 2000. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S11544.)

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

Bills Introduced: 6 public bills, H.R. 5631–5636; and 3 resolutions, H. Con. Res. 442, and H. Res. 667–668 were introduced. **Pages H11927–28**

Reports Filed: No reports were filed today.

Suspensions: The House agreed to suspend the rules and pass the following measures:

FSC Repeal and Extraterritorial Income Exclusion Act: Agreed to the Senate amendment to H.R. 4986, to amend the Internal Revenue Code of 1986 to repeal the provisions relating to foreign sales corporations (FSCs) and to exclude extraterritorial income from gross income (agreed to by a yea and nay vote of 316 yeas to 72 nays with 1 voting “present”, Roll No. 597)—clearing the measure for the President; and **Pages H11881–99, H11900–01**

Prohibition of Gaming on Certain Indian Trust Lands in California: H.R. 5477, to provide that gaming shall not be allowed on certain Indian trust lands in California that were purchased with certain Federal grant funds. Agreed to amend the title. **Pages H11899–H11900**

Conditional Adjournment or Recess of the Congress: The House agreed to H. Con. Res. 442, providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate. **Page H11901**

District of Columbia Appropriations: The House passed H.R. 5633, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2001, by unanimous consent. **Page H11901**

Speaker pro Tempore: Read a letter from the Speaker wherein he appointed Representative Wolf to act as Speaker pro tempore to sign enrolled bills and joint resolutions through December 4. **Page H11915**

Resignations—Appointments: Agreed that notwithstanding any adjournment of the House until Monday, December 4, 2000, the Speaker, Majority Leader and Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House. **Page H11915**

Calendar Wednesday: Agreed that business in order under the calendar Wednesday rule be dispensed with on Wednesday, December 6, 2000. **Page H11915**

Recess: The House recessed at 9:02 a.m. and reconvened at 10:00 a.m. **Page H11881**

Recess: The House recessed at 11:25 a.m. and reconvened at 5:35 p.m. **Page H11901**

Senate Messages: Message received from the Senate today appears on page H11915.

Quorum Calls—Votes: One yea-and-nay vote developed during the proceedings of the House today and appears on pages H11900–01. There were no quorum calls.

Adjournment: The House met at 9 a.m. and pursuant to the provisions of H. Con. Res. 442, adjourned at 6:47 p.m. until 2 p.m. on Monday, December 4.

Committee Meetings

No committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D 1168)

H.R. 209, to improve the ability of Federal agencies to license federally owned inventions. Signed Nov. 1, 2000. (P.L. 106–404)

H.R. 2607, to promote the development of the commercial space transportation industry, to authorize appropriations for the Office of the Associate Administrator for Commercial Space Transportation, to authorize appropriations for the Office of Space Commercialization. Signed Nov. 1, 2000. (P.L. 106–405)

H.R. 2961, to amend the Immigration and Nationality Act to authorize a 3-year pilot program under which the Attorney General may extend the period for voluntary departure in the case of certain nonimmigrant aliens who require medical treatment in the United States and were admitted under the Visa Waiver Pilot Program. Signed Nov. 1, 2000. (P.L. 106–406)

H.R. 3069, to authorize the Administrator of General Services to provide for redevelopment of the Southeast Federal Center in the District of Columbia. Signed Nov. 1, 2000. (P.L. 106–407)

H.R. 3671, to amend the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act to enhance the funds available for grants to States for fish and wildlife conservation projects, to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act, to commemorate the centennial of the establishment of the first national wildlife refuge in

the United States on March 14, 1903. Signed Nov. 1, 2000. (P.L. 106-408)

H.R. 4068, to amend the Immigration and Nationality Act to extend for an additional three years the special immigrant religious worker program. Signed Nov. 1, 2000. (P.L. 106-409)

H.R. 4110, to amend title 44, United States Code, to authorize appropriations for the National Historical Publications and Records Commission for fiscal years 2002 through 2005. Signed Nov. 1, 2000. (P.L. 106-410)

H.R. 4320, to assist in the conservation of great apes by supporting and providing financial resources for the conservation programs of countries within the range of great apes and projects of persons with demonstrated expertise in the conservation of great apes. Signed Nov. 1, 2000. (P.L. 106-411)

H.R. 4835, to authorize the exchange of land between the Secretary of the Interior and the Director of Central Intelligence at the George Washington Memorial Parkway in McLean, Virginia. Signed Nov. 1, 2000. (P.L. 106-412)

H.R. 4850, to increase, effective as of December 1, 2000, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans. Signed Nov. 1, 2000. (P.L. 106-413)

H.R. 5164, to amend title 49, United States Code, to require reports concerning defects in motor vehicles or tires or other motor vehicle equipment in foreign countries. Signed Nov. 1, 2000. (P.L. 106-414)

H.R. 5234, to amend the Hmong Veterans' Naturalization Act of 2000 to extend the applicability of that Act to certain former spouses of deceased Hmong veterans. Signed Nov. 1, 2000. (P.L. 106-415)

H.J. Res. 122, making further continuing appropriations for the fiscal year 2001. Signed Nov. 1, 2000. (P.L. 106-416)

S. 406, to amend the Indian Health Care Improvement Act to make permanent the demonstration program that allows for direct billing of medicare, medicaid, and other third party payors, and to expand the eligibility under such program to other tribes and tribal organizations. Signed Nov. 1, 2000. (P.L. 106-417)

S. 1296, to designate portions of the lower Delaware River and associated tributaries as a component of the National Wild and Scenic Rivers System. Signed Nov. 1, 2000. (P.L. 106-418)

S. 1402, to amend title 38, United States Code, to increase amounts of educational assistance for veterans under the Montgomery GI Bill and to enhance

programs providing educational benefits under that title. Signed Nov. 1, 2000. (P.L. 106-419)

S. 1455, to enhance protections against fraud in the offering of financial assistance for college education. Signed Nov. 1, 2000. (P.L. 106-420)

S. 1705, to direct the Secretary of the Interior to enter into land exchanges to acquire from the private owner and to convey to the State of Idaho approximately 1,240 acres of land near the City of Rocks National Reserve, Idaho. Signed Nov. 1, 2000. (P.L. 106-421)

S. 1707, to amend the Inspector General Act of 1978 (5 U.S.C. App.) to provide that certain designated Federal entities shall be establishments under such Act. Signed Nov. 1, 2000. (P.L. 106-422)

S. 2102, to provide to the Timbisha Shoshone Tribe a permanent land base within its aboriginal homeland. Signed Nov. 1, 2000. (P.L. 106-423)

S. 2412, to amend title 49, United States Code, to authorize appropriations for the National Transportation Safety Board for fiscal years 2000, 2001, 2002, and 2003. Signed Nov. 1, 2000. (P.L. 106-424)

S. 2917, to settle the land claims of the Pueblo of Santo Domingo. Signed Nov. 1, 2000. (P.L. 106-425)

H.J. Res. 123, making further continuing appropriations for the fiscal year 2001. Signed Nov. 3, 2000. (P.L. 106-426)

H.J. Res. 124, making further continuing appropriations for the fiscal year 2001. Signed Nov. 4, 2000. (P.L. 106-427)

H.J. Res. 84, making further continuing appropriations for the fiscal year 2001. Signed Nov. 4, 2000. (P.L. 106-428)

H.R. 4811, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2001. Signed Nov. 6, 2000. (P.L. 106-429)

H.R. 5178, to require changes in the bloodborne pathogens standard in effect under the Occupational Safety and Health Act of 1970. Signed Nov. 6, 2000. (P.L. 106-430)

H.R. 468, to establish the Saint Helena Island National Scenic Area. Signed Nov. 6, 2000. (P.L. 106-431)

H.R. 1725, to provide for the conveyance by the Bureau of Land Management to Douglas County, Oregon, of a county park and certain adjacent land. Signed Nov. 6, 2000. (P.L. 106-432)

H.R. 3218, to amend title 31, United States Code, to prohibit the appearance of Social Security account numbers on or through unopened mailings of checks or other drafts issued on public money in the Treasury. Signed Nov. 6, 2000. (P.L. 106-433)

H.R. 3657, to provide for the conveyance of a small parcel of public domain land in the San Bernardino National Forest in the State of California. Signed Nov. 6, 2000. (P.L. 106-434)

H.R. 3679, to provide for the minting of commemorative coins to support the 2002 Salt Lake Olympic Winter Games and the programs of the United States Olympic Committee. Signed Nov. 6, 2000. (P.L. 106-435)

H.R. 4315, to designate the facility of the United States Postal Service located at 3695 Green Road in Beachwood, Ohio, as the "Larry Small Post Office Building". Signed Nov. 6, 2000. (P.L. 106-436)

H.R. 4404, to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directly by the National Park Service, to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a State or political subdivision when required by State law. Signed Nov. 6, 2000. (P.L. 106-437)

H.R. 4450, to designate the facility of the United States Postal Service located at 900 East Fayette Street in Baltimore, Maryland, as the "Judge Harry Augustus Cole Post Office Building". Signed Nov. 6, 2000. (P.L. 106-438)

H.R. 4451, to designate the facility of the United States Postal Service located at 1001 Frederick Road in Baltimore, Maryland, as the "Frederick L. Dewberry, Jr. Post Office Building". Signed Nov. 6, 2000. (P.L. 106-439)

H.R. 4625, to designate the facility of the United States Postal Service located at 2108 East 38th Street in Erie, Pennsylvania, as the "Gertrude A. Barber Post Office Building". Signed Nov. 6, 2000. (P.L. 106-440)

H.R. 4786, to designate the facility of the United States Postal Service located at 110 Postal Way in Carrollton, Georgia, as the "Samuel P. Roberts Post Office Building". Signed Nov. 6, 2000. (P.L. 106-441)

H.R. 4957, to amend the Omnibus Parks and Public Lands Management Act of 1996 to extend the legislative authority for the Black Patriots Foundation to establish a commemorative work. Signed Nov. 6, 2000. (P.L. 106-442)

H.R. 5083, to extend the authority of the Los Angeles Unified School District to use certain park lands in the city of South Gate, California, which were acquired with amounts provided from the land and water conservation fund, for elementary school purposes. Signed Nov. 6, 2000. (P.L. 106-443)

H.R. 5157, to amend title 44, United States Code, to ensure preservation of the records of the Freedmen's Bureau. Signed Nov. 6, 2000. (P.L. 106-444)

H.R. 5273, to clarify the intention of the Congress with regard to the authority of the United States Mint to produce numismatic coins. Signed Nov. 6, 2000. (P.L. 106-445)

H.R. 5314, to require the immediate termination of the Department of Defense practice of euthanizing military working dogs at the end of their useful working life and to facilitate the adoption of retired military working dogs by law enforcement agencies, former handlers of these dogs, and other persons capable of caring for these dogs. Signed Nov. 6, 2000. (P.L. 106-446)

S. 614, to provide for regulatory reform in order to encourage investment, business, and economic development with respect to activities conducted on Indian lands. Signed Nov. 6, 2000. (P.L. 106-447)

S. 2812, to amend the Immigration and Nationality Act to provide a waiver of the oath of renunciation and allegiance for naturalization of aliens having certain disabilities. Signed Nov. 6, 2000. (P.L. 106-448)

S. 3062, to modify the date on which the Mayor of the District of Columbia submits a performance accountability plan to Congress. Signed Nov. 6, 2000. (P.L. 106-449)

H.R. 1651, to amend the Fishermen's Protective Act of 1967 to extend the period during which reimbursement may be provided to owners of United States fishing vessels for costs incurred when such a vessel is seized and detained by a foreign country. Signed November 7, 2000. (P.L. 106-450)

H.R. 2442, to provide for the preparation of a Government report detailing injustices suffered by Italian Americans during World War II, and a formal acknowledgment of such injustices by the President. Signed November 7, 2000. (P.L. 106-451)

H.R. 4831, to redesignate the facility of the United States Postal Service located at 2339 North California Avenue in Chicago, Illinois, as the "Roberto Clemente Post Office". Signed November 7, 2000. (P.L. 106-452)

H.R. 4853, to redesignate the facility of the United States Postal Service located at 1568 South Green Road in South Euclid, Ohio, as the "Arnold C. D'Amico Station". Signed November 7, 2000. (P.L. 106-453)

H.R. 5229, to designate the facility of the United States Postal Service located at 219 South Church Street in Odum, Georgia, as the "Ruth Harris Coleman Post Office". Signed November 7, 2000. (P.L. 106-454)

S. 501, to address resource management issues in Glacier Bay National Park, Alaska. Signed November 7, 2000. (P.L. 106-455)

S. 503, designating certain land in the San Isabel National Forest in the State of Colorado as the

“Spanish Peaks Wilderness”. Signed November 7, 2000. (P.L. 106–456)

S. 835, to encourage the restoration of estuary habitat through more efficient project financing and enhanced coordination of Federal and non-Federal restoration programs. Signed November 7, 2000. (P.L. 106–457)

S. 1088, to authorize the Secretary of Agriculture to convey certain administrative sites in national forests in the State of Arizona, to convey certain land to the City of Sedona, Arizona for a wastewater treatment facility. Signed November 7, 2000. (P.L. 106–458)

S. 1211, to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner. Signed November 7, 2000 (P.L. 106–459)

S. 1218, to direct the Secretary of the Interior to issue to the Landusky School District, without consideration, a patent for the surface and mineral estates of certain lots. Signed November 7, 2000. (P.L. 106–460)

S. 1275, to authorize the Secretary of the Interior to produce and sell products and to sell publications relating to the Hoover Dam, and to deposit revenues generated from the sales into the Colorado River Dam fund. Signed November 7, 2000. (P.L. 106–461)

S. 1586, to reduce the fractionated ownership of Indian Lands. Signed November 7, 2000. (P.L. 106–462)

S. 2300, to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for coal that may be held by an entity in any 1 State. Signed November 7, 2000. (P.L. 106–463)

S. 2719, to provide for business development and trade promotion for Native Americans. Signed November 7, 2000. (P.L. 106–464)

S. 2950, to authorize the Secretary of the Interior to establish the Sand Creek Massacre Historic Site in the State of Colorado. Signed November 7, 2000. (P.L. 106–465)

S. 3022, to direct the Secretary of the Interior to convey certain irrigation facilities to the Nampa and Meridian Irrigation District. Signed November 7, 2000. (P.L. 106–466)

NEW PRIVATE LAW

H.R. 3646, for the relief of certain Persian Gulf evacuees. Signed November 7, 2000. (P.L. 106–8)

COMMITTEE MEETINGS FOR WEDNESDAY, NOVEMBER 15, 2000

Senate

No meetings/hearings scheduled.

House

No meetings scheduled.

Next Meeting of the SENATE

12 noon, Tuesday, December 5

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Monday, December 4

Senate Chamber

Program for Tuesday: After the transaction of any morning business (not to extend beyond 12:30 p.m.), Senate expects to consider a further continuing resolution. Also, Senate may consider any other cleared legislative and executive business.

House Chamber

Program for Monday: To be announced.

Extensions of Remarks, as inserted in this issue

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